2-10-88
Vol. 53 No. 27
Pages 3845-3996

Federal Register

Wednesday
February 10, 1988

Briefing on How To Use the Federal Register —
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers for $340.00 per year, or $170.00 for 6 months in paper form, or $188.00 per year, or $94.00 for six months in microfiche form, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or charge to your GPO Deposit Account or VISA or Mastercard.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 53 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202–783–3238
Magnetic tapes	275–3328
Problems with public subscriptions	275–3054

Single copies/back copies:

Paper or fiche	783–3238
Magnetic tapes	275–3328
Problems with public single copies	275–3050

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523–5240
Magnetic tapes	275–3328
Problems with Federal agency subscriptions	523–5240

For other telephone numbers, see the Reader Aids section at the end of this issue.

THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: February 19; at 9:00 a.m.
WHERE: Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC.
RESERVATIONS: Roy Nanovic, 202–523–3187

Contents

Federal Register
Vol. 53, No. 27
Wednesday, February 10, 1988

ACTION
NOTICES
Meetings:
National Volunteer Advisory Council, 3906

Agricultural Stabilization and Conservation Service
RULES
Marketing quotas and acreage allotments:
Feed grain, rice, cotton, and wheat—
Amendments, 3856

Agriculture Department
See also Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Farmers Home Administration; Forest Service
NOTICES
Agency information collection activities under OMB review, 3906
Meetings:
Agriculture Biotechnology Research Advisory Committee, 3906

Animal and Plant Health Inspection Service
RULES
Plant-related quarantine, domestic:
Mediterranean fruit fly, 3849
Melon fly, 3850
PROPOSED RULES
Plant protection and quarantine treatment manual, 3896

Army Department
See Engineers Corps

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Commerce Department
See Foreign-Trade Zones Board; National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
China, 3909
Export visa requirements; certification, waivers, etc.:
India, 3909

Comptroller of the Currency
RULES
National banks:
Annual financial disclosures to shareholders, 3863

Consumer Product Safety Commission
RULES
Freedom of Information Act; implementation, 3867

Defense Department
See Engineers Corps

Economic Regulatory Administration
NOTICES
Natural gas exportation and importation:
Distrigas Corp., 3912
JDS Enegy Corp., 3911
TXG Gas Marketing Co., 3911
Westcoast Resources, Inc., 3914

Employment and Training Administration
NOTICES
Meetings:
Job Corps Center Assessment Advisory Committee, 3949

Energy Department
See also Economic Regulatory Administration; Energy Information Administration; Energy Research Office; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department
NOTICES
Atomic energy agreements; subsequent arrangements, 3911

Energy Information Administration
NOTICES
Reporting and recordkeeping requirements, 3914

Energy Research Office
NOTICES
Meetings:
High Energy Physics Advisory Panel, 3915

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
Marsh management in coastal Louisiana, 3910

Environmental Protection Agency
RULES
Air pollution control; new motor vehicles and engines:
New nonconforming imported vehicle and engine program; workshop, 3892
Non-domestically produced vehicles at ports of entry for selective enforcement auditing emissions testing at U.S. laboratories; workshop, 3893
Air programs; State authority delegations:
New Mexico, 3891
Air quality implementation plans; approval and promulgation; various States:
Rhode Island, 3888
Hazardous waste program authorizations:
North Carolina; correction, 3894
NOTICES
Agency information collection activities under OMB review, 3937
Meetings:
State-FIFRA Issues Research and Evaluation Group, 3937
Pesticides; emergency exemptions, etc.:
Mancozeb, 3938
Toxic and hazardous substances control:
Asbestos-containing materials in schools; EPA-approved training courses and State accreditation programs, 3982
Chemical testing—
Exclusion or waiver, 3938

Equal Employment Opportunity Commission
RULES
Employment discrimination:
Charges; designation of State and local fair employment practices agencies
New Hanover Human Relations Commission, 3888

Executive Office of the President
See Presidential Documents

Farmers Home Administration
RULES
Program regulations:
Community facility projects; correction, 3861
Servicing and collections—
Grant servicing and monitoring, 3860

Federal Aviation Administration
NOTICES
Exemption petitions; summary and disposition, 3972
Grants; availability, etc.:
Airport improvement program, 3973
Technical standard orders:
Life rafts (twin tube), 3974

Federal Communications Commission
RULES
Communications equipment:
Cable television service; input selector switches, 3894
PROPOSED RULES
Radio stations; table of assignments:
California, 3897
Minnesota, 3897, 3898
(2 documents)
Minnesota and South Dakota, 3898
Mississippi, 3899
(2 documents)
Missouri, 3899
NOTICES
Applications, hearings, determinations, etc.:
Harding, Douglas Gaines, et al., 3941
Taylor Broadcasting, Inc., et al., 3941

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 3978
(2 documents)

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act:
First sales of pipeline production; rehearing or clarification dismissal and rehearing denied, 3886
NOTICES
Environmental statements; availability, etc.:
Florida Gas Transmission Corp., 3924
Natural Gas Policy Act:
Self-implementing transactions, 3916
Applications, hearings, determinations, etc.:
ANR Pipeline Co., 3926
Columbia Gas Transmission Corp., 3926
Northern Natural Gas Co., 3927
Panhandle Eastern Pipe Line Co., 3927
Sebring Gas System et al., 3927

Federal Highway Administration
PROPOSED RULES
Engineering and traffic operations:
Construction and maintenance—
Contract procedures; standardized contract clauses, 3897

Federal Maritime Commission
NOTICES
Agreements filed, etc., 3942

Fish and Wildlife Service
RULES
Importation, exportation, and transportation of wildlife:
Humane and healthful transportation to U.S. of wild animals and birds, 3894
PROPOSED RULES
Endangered and threatened species:
Mountain sweet pitcher plant, 3901
NOTICES
Endangered and threatened species permit applications, 3946

Food and Drug Administration
NOTICES
Food additive petitions:
Insta Cool Inc. of North America, 3942
Medical devices; premarket approval:
IVAC Titrator Sodium Nitroprusside Closed Loop Module-Model 10K, 3943
Meetings:
Consumer information exchange, 3943

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Washington, 3907
Tacoma Boatbuilding Co., 3907

Forest Service
NOTICES
Environmental statements; availability, etc.:
Shasta-Trinity National Forests, CA, 3906

Health and Human Services Department
See Food and Drug Administration; Health Resources and Services Administration

Health Resources and Services Administration
NOTICES
Advisory committees; annual reports; availability, 3944
Meetings; advisory committees:
February, 3944

Hearings and Appeals Office, Energy Department
NOTICES
Special refund procedures; implementation, 3928

Indian Affairs Bureau
NOTICES
Environmental statements; availability, etc.:
Santa Ana Pueblo Indian Reservation, NM, 3946

Infant Mortality, National Commission to Prevent
See National Commission to Prevent Infant Mortality

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; Surface Mining Reclamation and Enforcement Office

International Development Cooperation Agency
See Overseas Private Investment Corporation

International Trade Commission
NOTICES
Import investigations:
Programmable digital clock thermostats, 3947
Recombinant erythropoietin, 3947
Meetings; Sunshine Act, 3978

Interstate Commerce Commission
PROPOSED RULES
Rail carriers:
Manufactured commodities; exemption, 3900

Justice Department
NOTICES
Pollution control; consent judgments:
Capuano, Daniel, et al., 3948

Labor Department
See Employment and Training Administration

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
Red Mountain wilderness study area, CA, 3944
Meetings:
Kingman Resource Area Grazing Advisory Board, 3944
Safford District Advisory Council, 3945
Realty actions; sales, leases, etc.:
Arizona, 3945
Recreation use permit system:
Upper Missouri National Wild and Scenic River, MT; commercial float boating operations, 3945

National Aeronautics and Space Administration
NOTICES
Meetings:
Aeronautics Advisory Committee, 3949

National Commission To Prevent Infant Mortality
NOTICES
Hearings, 3949

National Foundation on the Arts and the Humanities
NOTICES
Agency information collection activities under OMB review, 3950
Meetings:
Arts National Council Ad Hoc Challenge III Committee, 3949, 3950
(2 documents)
Music Advisory Panel, 3949
Theater Advisory Panel, 3950
Visual Arts Advisory Panel, 3950

National Oceanic and Atmospheric Administration
NOTICES
Fishery management councils; hearings:
Gulf of Mexico—
Red drum, 3908
Meetings:
Pacific Fishery Management Council, 3908
South Atlantic Fishery Management Council, 3908
Western Pacific Fishery Management Council, 3908

National Transportation Safety Board
NOTICES
Meetings; Sunshine Act, 3979

Nuclear Regulatory Commission
RULES
Organization, functions, and authority delegations:
Region I office; address change, 3861
NOTICES
Meetings; Sunshine Act, 3979
Operating licenses, amendments; no significant hazards considerations:
Biweekly notices, 3951
Applications, hearings, determinations, etc.:
Georgia Power Co. et al., 3965
Illinois Power Co., 3966
Public Service Electric & Gas Co. et al., 3967

Overseas Private Investment Corporation
NOTICES
Agency information collection activities under OMB review, 3947

Presidential Documents
ADMINISTRATIVE ORDERS
BIGEYE Binary Chemical Bomb; production (Presidential Determination No. 88-7 of Jan. 19, 1988), 3845
Multilateral development banks; withholding of funds (Presidential Determination No. 88-8 of Jan. 29, 1988), 3847

Public Health Service
See Food and Drug Administration; Health Resources and Services Administration

Research and Special Programs Administration
NOTICES
Hazardous materials:
Applications; exemptions, renewals, etc., 3974, 3976
(2 documents)

Securities and Exchange Commission
RULES
Securities:
Advertising by investment companies, 3868
NOTICES
Meetings; Sunshine Act, 3979
Applications, hearings, determinations, etc.:
Medallion Funding Corp., 3968
Public utility holding company filings, 3970
Selected Investment Managers Capital Appreciation Equity Fund et al., 3971

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Indian lands program:
Coal leases; terms and conditions incorporation, 3992

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Federal Aviation Administration; Federal Highway Administration; Research and Special Programs Administration

Treasury Department
See also Comptroller of the Currency
NOTICES
Agency information collection activities under OMB review, 3976

Separate Parts In This Issue

Part II
Environmental Protection Agency, 3982

Part III
Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 3992

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Administrative Orders:
Presidential Determinations:
No. 88-7 of Jan. 19, 1988 ... 3845
No. 88-8 of Jan. 29, 1988 ... 3847

7 CFR
301 (2 documents) ... 3849, 3850
713 ... 3856
1901 ... 3860
1942 ... 3861
1951 ... 3860
Proposed Rules:
300 ... 3896

10 CFR
1 ... 3861
20 ... 3861
30 ... 3861
40 ... 3861
55 ... 3861
70 ... 3861
73 ... 3861

12 CFR
18 ... 3863

16 CFR
1015 ... 3867

17 CFR
230 ... 3868
270 ... 3868
274 ... 3868

18 CFR
2 ... 3886
154 ... 3886
201 ... 3886
270 ... 3886
271 ... 3886

23 CFR
Proposed Rules:
635 ... 3897

29 CFR
1601 ... 3888

30 CFR
Proposed Rules:
750 ... 3992

40 CFR
52 ... 3888
60 ... 3891
61 ... 3891
85 ... 3892
86 ... 3893
271 ... 3894

47 CFR
15 ... 3894
Proposed Rules:
73 (7 documents) ... 3897-3899

49 CFR
Proposed Rules:
1039 ... 3900

50 CFR
14 ... 3894
Proposed Rules:
17 ... 3901

Federal Register
Vol. 53, No. 27
Wednesday, February 10, 1988

Presidential Documents

Title 3—

The President

Presidential Determination No. 88–7 of January 19, 1988

Certification of Production Facilities for the BIGEYE Binary Chemical Bomb

Memorandum for the Secretary of Defense

Pursuant to Section 152 of the National Defense Authorization Act for Fiscal Year 1987, Public Law 99–661, I hereby certify with respect to the BIGEYE binary chemical bomb that:

(1) Production of the BIGEYE binary chemical bomb is in the national security interests of the United States; and

(2) the design, planning, and environmental requirements for production facilities have been satisfied.

I also certify that this BIGEYE program is, in my considered judgment, vital to our national defense. We will continue to pursue as a national goal a truly comprehensive and verifiable ban on all chemical weapons. Until we can achieve that end, this and other actions to modernize our limited chemical retaliatory capability serve to deter the use of chemical weapons by our potential adversaries.

You are hereby authorized and directed to make the appropriate congressional notifications on my behalf.

This determination shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, January 19, 1988.

[FR Doc. 88-2922
Filed 2-8-88; 2:46 pm]
Billing code 3195-01-M

Presidential Documents

Presidential Determination No. 88–8 of January 29, 1988

Determination Pursuant to Section 554 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988

Memorandum for the Honorable George P. Shultz, the Secretary of State

Pursuant to Section 554 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as enacted in Public Law 100–202), I hereby certify that the withholding of funds to multilateral development banks and other international organizations and programs pursuant to the limitation contained therein, prohibiting the obligation of funds appropriated by the Act to finance indirectly any assistance or reparations to certain specified countries, is contrary to the national interest.

This determination shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, January 29, 1988.

[FR Doc. 88–2962
Filed 2–8–88 4:39 pm]
Billing code 3195–01–M

Rules and Regulations

Federal Register
Vol. 53, No. 27
Wednesday, February 10, 1988

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket 87-171]

Mediterranean Fruit Fly; Removal of Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are removing the Mediterranean Fruit Fly regulations that designated a portion of Los Angeles County in California as a quarantined area and imposed restrictions on the interstate movement of regulated articles from that area. The regulations were established to prevent the artificial spread of the Mediterranean fruit fly into noninfested areas of the United States. We have determined that the Mediterranean fruit fly has been eradicated from Los Angeles County, California, and the regulations are no longer necessary. This rule relieves restrictions on the interstate movement of regulated articles from the quarantined area in Los Angeles County, California.

DATES: Interim rule effective February 5, 1988. Consideration will be given only to comments postmarked or received on or before April 11, 1988.

ADDRESS: Send an original and two copies of written comments to Steven B. Farbman, Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 87-171. Comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Eddie Elder, Chief Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, Room 661, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6365.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the **Federal Register** on September 2, 1987 (52 FR 33218-33224, Docket Number 87-120), and effective August 27, 1987, we established the Mediterranean fruit fly regulations and quarantined an area in Los Angeles County, California. In an interim rule published in the **Federal Register** on September 17, 1987, and effective September 14, 1987 (52 FR 35059-35060, Docket Number 87-124), we amended the Mediterranean fruit fly regulations by adding another portion of Los Angeles County in California to the list of quarantined areas.

The regulations impose restrictions on the interstate movement of regulated articles from quarantined areas in order to prevent the spread of the Mediterranean fruit fly to noninfested areas of the United States. The regulations also designated soil, and a large number of fruits, nuts, vegetables, and berries, as regulated articles.

Based on trapping surveys conducted by inspectors of the United States Department of Agriculture and state agencies of California, we have determined that the Mediterranean fruit fly has been eradicated from the infested areas of Los Angeles County. The last finding of Mediterranean fruit fly was made on September 3, 1987. Since then, no evidence of infestations has been found. We have determined that infestations no longer exist in Los Angeles County.

Immediate Action

James W. Glosser, Acting Administrator of the Animal and Plant Health Inspection Service, has determined that a situation exists that warrants publication of this interim rule without prior opportunity for public comment. The areas in Los Angeles County were quarantined due to the possibility that the Mediterranean fruit fly could be spread artificially from this area to noninfested areas of the United States. Since this situation no longer exists, and because the quarantined status of these portions of Los Angeles County imposes an unnecessary regulatory burden on the public, we are taking immediate action to remove the Mediterranean fruit fly regulations.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these circumstances, and because this rule relieves a regulatory restriction, there is good cause under 5 U.S.C. 553 to make this interim rule effective upon signature. We will consider comments that are postmarked or received within 60 days of publication of this interim rule in the **Federal Register**. As soon as possible after the comment period closes, we will publish another document in the **Federal Register** discussing the comments we received and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individuals, industries, Federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Within the part of Los Angeles County that was quarantined, there are approximately 150 small entities that may be affected, including 87 mobile and eight stationary fruit stands, 40 wholesale produce dealers 15 nurseries, and one farmers' market. The effect of this rule on these entities should be insignificant, since most of their sales are local intrastate and were not affected by the regulatory provisions we are removing; those sales that were affected were generally of articles that could be moved after compliance with

treatment or inspection provisions of the regulations.

Based on these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Mediterranean fruit fly, Incorporation by reference.

Accordingly, 7 CFR Part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for Part 301 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

§§ 301.78 through 301.78–10 [Removed]

2. "Subpart-Mediterranean Fruit Fly" (7 CFR 301.78 through 301.78–10) is removed.

Done at Washington, DC, this 5th day of February, 1988.

James W. Glosser,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88–2802 Filed 2–9–88; 8:45 am]

BILLING CODE 3410–34–M

---

7 CFR Part 301

[Docket No. 87–173]

Melon Fly

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are quarantining part of Los Angeles County, California, because of the melon fly, and restricting the interstate movement of regulated articles from the quarantined area. This emergency action is necessary to prevent the spread of the melon fly to noninfested areas of the United States.

DATES: This interim rule was effective on February 5, 1988. Consideration will be given only to comments postmarked or received on or before April 11, 1988.

ADDRESSES: Send an original and two copies of written comments to Steven B. Farbman, Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 87–143. Comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Operations Officer, Domestic and Emergency Operations Staff, PPQ, APHIS, USDA, Room 661, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–6365.

SUPPLEMENTARY INFORMATION:

Background

We are amending the "Domestic Quarantine Notices" in 7 CFR Part 301 by adding "Melon Fly" regulations (referred to below as the regulations). These regulations quarantine part of Los Angeles County, California because of the melon fly, and restrict the interstate movement of regulated articles from the quarantined area.

The melon fly, *Dacus cucurbitae* (Coquillet), is a very destructive pest of fruits and vegetables, including melons, mangos, peppers, squash, cucumbers, beans, eggplant, tomatoes, apples, oranges, peaches, and pears. This pest can cause serious economic losses by lowering the yield and quality of these fruits and vegetables, and by damaging the seedlings and young plants of squash, melons, and cucumbers. Heavy infestations can result in complete loss of these crops.

Recent trapping surveys near El Segundo, California, have established that part of Los Angeles County is infested with the melon fly.

Officials of the United States Department of Agriculture (USDA, or the Department) and state and county agencies in California have begun an intensive survey and eradication program in the infested area. Also, as explained below, California has restricted the intrastate movement of certain articles from the quarantined area to prevent the spread of the melon fly within California. However, Federal regulations are necessary to restrict the interstate movement of certain articles from the quarantined area to prevent the spread of the melon fly to noninfested areas in other states. This interim rule establishes those Federal regulations, which are described below.

Section 301.97 Prohibitions.

This section prohibits the interstate movement of regulated articles from quarantined areas except in accordance with the regulations.

Section 301.97–1 Definitions.

This section defines the following terms: "Administrator," "Certificate," "Compliance Agreement," "Departmental Permit," "Infestation," "Inspector," "Interstate," "Limited permit," "Moved," "Melon Fly," "Person," "Plant Protection and Quarantine," "Quarantined area," "Regulated article," and "State."

In particular, an "infestation" is defined as set forth below. In order to develop accurate criteria for determining when an infestation of melon fly exists, APHIS has consulted with fruit fly experts within the USDA's Agricultural Research Service, with state universities, and with state departments of agriculture. (Copies of this information and a list of supporting references are available by writing to USDA, APHIS, PPQ, National Programs, Room 663, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland, 20782.) The consensus of these experts is that there is an infestation of melon fly when any of the following is present:

1. One melon fly larva, because its presence indicates that at least one successful mating has occured, resulting in propagation of a new generation.

2. One melon fly pupa, because its presence indicates that at least one successful mating has occurred, resulting in propagation of a new generation.

3. One mated adult female melon fly, because its presence indicates the existence of other, undiscovered adult melon flies and the possibility that the captured fly may have deposited eggs before being discovered.

4. Two or more adult melon flies collected from within a 3-mile radius, within one melon fly life cycle, because their presence indicates the existence of other, undiscovered adult melon flies in close proximity during a time period when a successful mating could occur. With regard to most other exotic fruit flies, an infestation is considered to exist if more than five unmated adult fruit flies are found in an area significantly smaller than the 3-mile

radius established for the melon fly. Fruit fly experts believe a lower threshold is necessary for melon fly because of the melon fly's ability to migrate at a faster rate than other fruit flies.

Section 301.97–2 Regulated articles.

Certain articles present a significant risk of spreading the melon fly if they are moved from quarantined areas without restriction. We call these articles regulated articles. This section designates as regulated articles the melon fly and a number of fruits, vegetables, and berries, and soil within the drip line of plants that produce the fruits, vegetables, and berries. In addition, this section allows designation of any other product, article, or means of conveyance as a regulated article, if an inspector determines that it presents a risk of spread of the melon fly and notifies the person in possession of the product, article, or means of conveyance that it is subject to the restrictions in the regulations. This last provision for "any other product, article, or means of conveyance" allows an inspector who discovers a risk of spreading melon fly (e.g., a truck with melon fly pupae in cracks in the floorboards) to regulate the product, article, or means of conveyance immediately, by informing the person in possession of the product, article, or means of conveyance that it is being regulated.

Fruits, vegetables, or berries that are canned, or dried, or frozen below −17.8 °C. (0 °F.) are not included as regulated articles, since the melon fly cannot survive under those conditions.

Section 301.97–3 Quarantined areas.

This section states that the following areas will be listed as quarantined areas: (1) Each state in which an infestation of melon fly exists, or (2) a 169-square-mile area within a state or status surrounding the focal point of a melon fly infestation. The Administration may establish boundaries encompassing more or less than an 169-square-mile area, when he or she determines it is necessary to do so to establish readily identifiable boundaries.

This 169-square-mile quarantined area is larger than that established for most species of fruit flies. In the case of most fruit fly infestations, the quarantined area encompasses only 81 square miles. However, research has shown that the female melon fly usually migrates farther than other fruit flies. (Copies of this research information and a list of supporting references are available by writing to USDA, APHIS, PPQ, National Programs, Room 663, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland, 20782.) Consequently, the regulated area for melon fly is 169 square miles instead of 81 square miles.

Also, from a purely biological standpoint, the quarantined area would most effectively be measured as a circle, with the point of detection at its center, rather than in terms of square miles. However, the need for clarity in describing the regulated area usually dictates that natural and man-made boundaries that circumscribe the biological circle be chosen as the boundaries for the quarantined area. Consequently, the quarantined area usually resembles a square and is measured in square miles.

Section 301.97–3 also provides that we will designate less than an entire state as a quarantined area only if we determine that: (1) The state had adopted and is enforcing restrictions on the intrastate movement of regulated articles, and the restrictions are substantially the same as those imposed by the regulations on the interstate movement of those articles; and (2) quarantining less than the entire state will prevent the interstate spread of the melon fly. These determinations would indicate that infestations are confined to the quarantined areas and eliminate the need for designating an entire state as a quarantined area.

In accordance with these criteria, we have quarantined the following area of Los Angeles County:

Los Angeles County: That portion of the county bounded by a line drawn as follows: beginning at the point where Moss Avenue intersects the Pacific Ocean coastline; then northeasterly along this avenue to its intersection with State Highway 1; then northeasterly along this highway to its intersection with Interstate Highway 10; then easterly along this highway to its intersection with Western Avenue; then south along this avenue to its intersection with Torrance Boulevard; then west along this boulevard to its intersection with Catalina Avenue; then due west along an imaginary line from that intersection to the Pacific Ocean coastline; then northwesterly along this coastline to the point of beginning.

We have not quarantined the entire state of California because the melon fly has not been found in other areas of the state, and because California has adopted and is enforcing restrictions on the intrastate movement of regulated articles, and the restrictions are substantally the same as those imposed by the regulations on the interstate movement of those articles.

Section 301.97–3 also provides that we may quarantine an area without publication in the **Federal Register**, if there is a reason to designate the area as a quarantined area in accordance with this section. After we give the owner or person in possession of the area written notice of the quarantine, interstate movement of any regulated article from the area will be subject to the regulations. This provision is necessary to prevent the spread of the melon fly during the time between discovery of the pest and the time a document quarantining the area can be published in the **Federal Register**.

Section 301.97–4 Conditions governing the interstate movement of regulated articles from quarantined area

This section requires most regulated articles moved interstate from quarantined areas to be accomplished by a certificate or a limited permit. The only exceptions are certain articles that move into the quarantined area from outside the quarantined area or that are moved by the Department for experimental or scientific purposes.

Except for articles moved by the Department, only articles that are moved into the quarantined area from outside the quarantined area and that are accompanied by a waybill that indicates the point of origin may be moved interstate without a certificate or limited permit. Additionally, the articles must be moved in an enclosed vehicle or be completely enclosed so as to prevent access by melon files. In most cases, except as explained below regarding Los Angeles International Airport, California, the regulated articles must also move through the quarantined area without stopping (except for refueling, rest stops, emergency repairs, and for traffic conditions such as traffic lights and stop signs) and the regulated articles must not be unpacked or unloaded in the quarantined area.

We are including special provisions for regulated articles that transit Los Angeles International Airport as air cargo or as meals for aircraft passengers and crews. If these articles are moved into the quarantined area from outside the quarantined area and are enclosed or covered as specified above, they may be moved interstate without a certificate or limited permit, and not be subject to the regulations regarding stopping, unpacking, and unloading. Although Los Angeles International Airport is in the quarantined area, with proper covering or enclosure, regulated articles that are moved into the quarantined area from outside the quarantined area and that move as air cargo or meals through the airport can be interstate without a significant risk of spreading the melon fly.

Also, the Department may move regulated articles interstate without a certificate or limited permit if the articles are moved for experimental or scientific purposes. However, the articles must be moved in accordance with a Department permit issued by the Administrator, under conditions that prevent the spread of the melon fly.

§ 301.97–5 Issuance and cancellation of certificates and limited permits.

Under federal domestic plant quarantine programs, there is a difference between the use of certificates and limited permits. Certificates are issued for regulated articles when an inspector finds that, because of certain conditions (e.g., the article is free of melon fly), there is no pest risk before movement. Regulated articles accompanied by a certificate can be moved interstate without further restrictions. Limited permits are issued for regulated articles when an inspector finds that, because of a possible pest risk, the articles may be safety moved interstate only subject to further restrictions, such as movement to limited areas and movement for limited purposes. Section 301.97–5 explains the conditions for issuing a certificate or limited permit.

Specifically, § 301.97–5(a) provides that a certificate will be issued by an inspector for the movement of a regulated article if the inspector determines that the article: (1) Is free of melon fly, has been treated under the supervision of an inspector, who must be present during the treatment, in accordance with § 301.97–10, or comes from a premises of origin that is free of melon fly and the regulated article has not been moved from the premises of origin since November 20, 1987; (2) will be moved in compliance with any additional emergency conditions deemed necessary to prevent the spread of melon fly under 7 U.S.C. 150dd: and (3) is eligible for unrestricted movement under all other federal domestic plant quarantines and regulations applicable to that article.

We have included a footnote (number 1) that provides an address for securing the addresses and telephone numbers of the local Plant Protection and Quarantine offices at which services of inspectors may be requested. We have also included a footnote (number 2) that explains that the Secretary of Agriculture can, under 7 U.S.C. 150dd, take emergency actions to seize, quarantine, treat, destory, or apply other remedial measures to articles that he or she has reason to believe are infested or infected by or contain plant pests.

Section 301.97–5(b) provides for the issuance of a limited permit (in lieu of a certificate) by an inspector for interstate movement of a regulated article if the inspector determines that the article is to be moved to a specified destination for specified handling, utilization or processing, and that the movement will not result in the spread of melon fly.

Section 301.97–5(c) allows any person who has entered into and is operating under a compliance agreement to issue a certificate or limited permit for the interstate movement of a regulated article after an inspector has determined that the article is eligible for a certificate or limited permit under § 301.97–5 (a) or (b).

Also, § 301.97–5(d) contains provisions for the withdrawal of a certificate or limited permit by an inspector if the inspector determines that the holder of the certificate or limited permit has not complied with conditions for the use of the document. This section also contains provisions for notifying the holder of the reasons for the withdrawal and for holding a hearing if there is any conflict concerning any material fact.

Section 301.97–6 Compliance agreement and cancellation.

Section 301.97–6 provides for the issuance and cancellation of compliance agreements. Compliance agreements are provided for the convenience of persons who are involved in interstate shipments of regulated articles from quarantined areas. A compliance agreement will be issued when an inspector has determined that the person requesting the compliance agreement is knowledgeable regarding the requirements of § 301.97, and the person has agreed to comply with those requirements. This section contains a footnote (number 3) to explain how compliance agreements may be arranged.

Section 301.97–6 also provides that an inspector may cancel the compliance agreement upon finding that a person who has entered into the agreement has failed to comply with any of the provisions of the regulations. The inspector will notify the holder of the compliance agreement of the reasons for cancellation and offer an opportunity for a hearing to resolve any conflicts of material fact.

Section 301.97–7 Assembly and inspection of regulated articles.

Section 301.97–7 provides that any person (other than a person authorized to issue certificates or limited permits under § 301.97–5(c)) who desires a certificate or limited permit to move regulated articles must request, at least 48 hours before the desired interstate movement, that an inspector issue a certificate or limited permit. The regulated article must be assembled wherever and in whatever way the inspector designates as necessary to comply with the regulations.

Section 301.97–8 Attachment and inspection of regulated Articles.

Section 301.97–8 requires the certificate or limited permit issued for movement of the regulated article to be attached, during the interstate movement, to the regulated article, or to a container carrying the regulated article, or to the accompanying waybill. Further, the section requires that the carrier must furnish the certificate or limited permit to the consignee at the destination of the regulated article.

These provisions are necessary for enforcement purposes and to ensure that persons desiring inspection services can obtain them before the intended movement date.

Section 301.97–9 Costs and charges.

Section 301.97–9 explains the APHIS policy that services of an inspector that are needed to comply with the provisions of the quarantine and regulations in § 301.97 are provided without cost between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays, to persons requiring those services, but that we will not be responsible for any other costs or charges (such as overtime costs for inspections conducted at times other than between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays).

Section 301.97–10 Treatments.

Section 301.97–10 sets forth treatment schedules that qualify soil and regulated articles for issuance of certificates as provided in § 301.97–5. For instance, it has been determined—based on research by the Agricultural Research Service—that the following diazinon treatment would destroy the melon fly in soil:

Soil within the drip area of plants that are producing or have produced the fruits, vegetables, and berries listed in § 301.97–2(a) of this subpart: Apply diazinon at the rate of 5 pounds active ingredient per acre to the soil within the drip area, with sufficient water to wet the soil to at least a depth of ½ inch.

Treatments authorized for use in destroying melon fly on regulated articles are listed in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference. See

§ 300.1 of this chapter, "Materials incorporated by reference."

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency situation exists, which warrants publication of this interim rule without prior opportunity for public comment. Because the melon fly could spread to noninfested areas of the United States, it is necessary to act immediately to prevent its spread.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these emergency conditions, there is good cause under 5 U.S.C. 553 for making this interim rule effective upon signature. We will consider comments postmarked or received within 60 days of publication of this interim rule in the **Federal Register**. Any amendments we make to this interim rule as a result of these comments will be published in the **Federal Register** as soon as possible following the close of the comment period.

Executive Order 12291 and Regulatory Flexibility Act.

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on completion, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Within the quarantined area, there are fewer than 250 small entities that may be affected, including 53 nurseries, 150 mobile fruit vendors, 30 fruit stands, 5 fruit wholesalers, and 8 companies catering to airlines. Most of the sales by the fruit vendors and fruit stand operators are local intrastate and will not be affected by the quarantine. Effects on the nurseries will be minimized by the availability of soil treatment under the regulations. Effects on the fruit wholesalers will be minimized by the availability of treatments for many of the regulated articles. Effects on the caterers will be negligible, because virtually all of their food products intended for interstate movement originate outside the quarantined area and, properly handled, will be permitted to be moved onto aircraft without a certificate or limited permit.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that the action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The regulations in the subpart contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

The program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Melon Fly.

Accordingly, 7 CFR Part 301 is revised to read as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for Part 301 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. Part 301 is amended by adding a new "Subpart—Melon Fly" to read as follows:

Subpart—Melon Fly

Sec.

301.97 Restrictions on interstate movement of regulated articles.
301.97–1 Definitions.
301.97–2 Regulated articles.
301.97–3 Quarantined areas.
301.97–4 Conditions governing the interstate movement of regulated articles from quarantined areas.
301.97–5 Issuance and cancellation of certificates and limited permits.
301.97–6 Compliance agreement and cancellation.
301.97–7 Assembly and inspection of regulated articles.
301.97–8 Attachment and disposition of certificates and limited permits.
301.97–9 Costs and charges.
301.97–10 Treatments.

Subpart—Melon Fly

§ 301.97 Restrictions on interstate movement of regulated articles.

No person may move interstate from any quarantined area any regulated article except in accordance with this subpart.

§ 301.97–1 Definitions.

In this subpart the following definitions apply:

Administrator. The Administrator of the Animal and Plant Health Inspection Service, or any employee of the United States Department of Agriculture to whom the Administrator has delegated authority to act in his or her stead.

Certificate. A document in which an inspector or person operating under a compliance agreement affirms that a specified regulated article has met the criteria in § 301.97–5(a) of this subpart and may be moved interstate to any destination.

Compliance agreement. A written agreement between Plant Protection and Quarantine and a person who moves regulated articles interstate, wherein the person agrees to comply with this subpart and any conditions imposed under it.

Departmental permit. A document issued by the Administrator, in which he or she affirms that interstate movement of the regulated article identified on the document is for scientific or experimental purposes, and that the regulated article is eligible for interstate movement in accordance with § 301.97–4(d) of this subpart.

Infestation. An infestation exists when any of the following is present: (1) One melon fly larva, (2) one melon fly pupa, (3) one mated adult female melon fly, or (4) two or more adult melon flies collected from within a 3-mile radius, within one melon fly life cycle.

Inspector. Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, United States Department of Agriculture, or other person authorized by the Administrator to enforce this subpart.

Interstate. From any state into or through any other state.

Limited permit. A document, in which an inspector or person operating under a compliance agreement affirms that a specified regulated article is eligible for interstate movement in accordance with § 301.97–5(b) of this subpart only to a specified destination and only in accordance with specified conditions.

Melon fly. The insect known as melon fly, *Dacus cucurbitae* (Coquillet), in any stage of development.

Moved. Shipped, offered to a common carrier for shipment, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved.

Person. Any association, company, corporation, firm, individual, joint stock company, partnership, or society, or any other legal entity.

Plant Protection and Quarantine. Plant Protection and Quarantine, Animal and Plant Health Inspection Service, United States Department of Agriculture.

Quarantined area. Any state, or any portion of a state, listed in § 301.97–3(c) of this subpart or otherwise designated as a quarantined area in accordance with § 301.97–3(b) of this subpart.

Regulated article. Any article listed in § 301.97–2 (a) through (d) of this subpart or otherwise designated as a regulated article in accordance with § 301.97–2(e) of this subpart.

State. The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any state, territory or possession of the United States.

§ 301.97-2 Regulated articles:

The following are regulated articles:

(a) Melon flies.[1]

(b) The following fruits, vegetables, and berries:

Apple (*Malus sylvestris*)
Apple, custard (*Annona reticulata*)
Avocado (*Persea americana*)
Bean, hyacinth (*Dolichos lablab*)
Bean, lima (*Phaseolus lunatus* = *Phaseolus limensis*)
Bean, mung (*Phaseolus radiatus*)
Bean, string (*Phaseolus vulgaris*)
Cantaloupe (*Cucumis melo* and *Cucumis melo* var. *cantalupensis*)
Cauliflower (*Brassica oleracea* var. botrytis)
Chayote (*Sechium edule*)
Colocynth (*Citrullus colocynthis*)
Cowpea (*Vigna unguiculata*)
Cucumber (*Cucumis sativus*)
Cucumber, bur (*Sicyos* sp.)
Cucurbit (*Cucumis pubescens* and *Cucumis trigonus*)
Date Palm (*Phoenix dactylifera*)
Eggplant (*Solanum melongena*)
Fig (*Ficus carica*)
Gourds (*Coccinia* spp.)
(*Cresentia* spp.)
(*Lagenaria* spp.)
(*Luffa* spp.)
(*Momordica* spp.)
(*Trichosanthis* spp.)
Grape (*Vitis trifolia*)
Guava (*Psidium guajava*)
Guava, cattley (*Psidium cattlelanum*)
Lemon, water (*Passiflora laurifolia*)
Mango (*Mangifera indica*)
Melon (*Citrullus sp.*)
Melon, Chinese (*Benincasa hispida*)
Melon, oriental pickling (*Cucumis melo* var. *conomon*)
Mustard, leaf (*Brassica juncea*)
Okra (*Hibiscus esculentus*)
Orange, king (*Citrus nobilis*)
Orange, mandarin (*Citrus reticulata*)
Orange, sweet (*Citrus sinensis*)
Papaya (*Carica papaya*)
Passion fruit (*Passiflora edulis*)
Peach (*Prunus persica*)
Pear (*Pyrus communis*)
Pepper (*Capsicum annum*)
Pepper, chile (*Capsicum annum*)
Pepper, tobasco (*Capsicum frutescens*)
Pumpkin (*Cucurbita pepo*)
Pumpkin, Canada (*Cucurbita moschata*)
Scarlet wisteria tree (*Sesbania grandiflora*)
Soursop (*Annona muricata*)
Squash (*Cucurbita maxima*)
Strawberry (*Fragaria chiloensis*)
Tomato (*Lycopersicon esculentum*)
Tomato, tree (*Cyphomandra betaceae*)
Watermelon (*Citrullus lanatus* = *Citrullus vulgaris*)

Any fruits, vegetables, or berries that are canned or dried or frozen below −17.8 °C. (0 °F.) are not regulated articles.

(c) Soil within the drip area of plants that are producing or have produced the fruits, vegetables, or berries listed in paragraph (b) of this section.

(d) Plants of the following species in cucurbitaceae:

Chayote (*Sechium edule*)
Colocynth (*Citrullus colocynthis*)
Cucumber (*Cucumis sativus*)
Cucumber, bur (*Sicyos* sp.)
Cucurbit, wild (*Cucumis trigonus*)
Gherkin, West Indian (*Cucumis angaria*)
Gourd, angled luffa (*Luffa acutangula*)
Gourd, balsam-apple (*Momordica balsaminia*)
Gourd, balsam-pear (*Momordica charantia*)
Gourd, ivy (*Coccinia grandis*)
Gourd, kakari (*Momordica cochinchiensis*)
Gourd, pointed (*Trichosanthis dioica*)
Gourd, serpent cucumber (*Trichosanthis anguina*)
Gourd, snake (*Trichosanthis cucumeroides*)
Gourd, sponge (*Luffa aegyptiaca*)
Gourd, white-flowered (*Lagenaria siceraria*)
Melon (*Cucumis melo*)
Melon, Chinese (*Benincasa hispida*)
Melon, long (*Cucumis utilissimus*)
Pumpkin (*Cucurbita pepo*)
Pumpkin, Canada (*Cucurbita moschata*)
Squash (*Cucurbita maxima*)
Watermelon (*Citrullus lanatus* = *Citrullus vulgaris*)

(e) Any other product, article, or means of conveyance, not listed in paragraphs (a) through (d) of this section, that an inspector determines presents a risk of spread of the melon fly, when the inspector notifies the person in possession of the product, article, or means of conveyance that it is subject to the restrictions of this subpart.

§ 301.97-3 Quarantined areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Administrator will list as a quarantined area in paragraph (c) of this section each state in which a melon fly infestation exists; or a 169-square-mile portion of a state or states surrounding the focal point of a melon fly infestation. The Administrator may establish boundaries encompassing more or less than a 169-square-mile area, when he or she determines it is necessary to do so to establish readily identifiable boundaries. Less than an entire state will be listed as a quarantined area only if the Administrator determines that:

(1) The state has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are substantially the same as those imposed by this subpart on the interstate movement of regulated articles; and

(2) The listing of less than the entire state as a quarantined area will prevent the interstate spread of the melon fly.

(b) The Administrator may designate any nonquarantined area as a quarantined area in accordance with the criteria specified in paragraph (a) of this section for listing a quarantined area. The Administrator will give written notice of this designation to the owner or person in possession of the nonquarantined area; thereafter, the interstate movement of any regulated article from an area designated as a quarantined area is subject to this subpart. As soon as practicable, this area will be added to the list in paragraph (c) of this section, or the Administrator will terminate the designation. The owner or person in possession of an area for which designation is terminated will be given written notice of the termination as soon as practicable.

(c) The areas described below are designated as quarantined areas:

California

Los Angeles County: That portion of the county bounded by a line drawn as foliows: beginning at the point where Moss Avenue intersects the Pacific Ocean coastline; then northeasterly along this avenue to its intersection with State Highway 1; then northeasterly along this highway to its intersection with Interstate Highway 10; then easterly along this highway to its intersection with Western Avenue; then south along this avenue to its intersection with Torrance Boulevard; then west along this boulevard to its intersection with Catalina Avenue; then due west along an imaginary line from

[1] Permit and other requirements for the interstate movement of melon flies are contained in Part 330 of this chapter.

that intersection to the Pacific Ocean coastline; then northeasterly along this coastline to the point of beginning.

§ 301.97-4 Conditions governing the interstate movement of regulated articles from quarantined areas.

Any regulated article may be moved interstate from a quarantined area only if moved under the following conditions:

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.97-5 and 301.97-8 of this subpart.

(b) Without a certificate or limited permit, if:

(1) The regulated article is moving as air cargo or as a meal for aircraft passengers or crew, and it is transiting Los Angeles International Airport, California;

(2) The regulated article was moved into the quarantined area and is either moved in an enclosed vehicle or is completely enclosed by a covering adequate to prevent access by melon flies (such as canvas, plastic, or closely woven cloth) while moving through the quarantined area; and

(3) The point of origin of the regulated article is indicated on a waybill accompanying the regulated article.

(c) Without certificate or limited permit, if:

(1) The regulated article was moved into the quarantined area and is moved through (without stopping except for refueling, rest stops, or emergency repairs, or for traffic conditions such as traffic lights and stop signs) the quarantined area in an enclosed vehicle, or is completely enclosed by a covering adequage to prevent access by melon flies (such as canvas, plastic, or closely woven cloth) while moving through the quarantined area; and

(2) The point of origin of the regulated article is indicated on the waybill accompanying the regulated article, and the enclosed vehicle or the enclosure that contains the regulated article is not opened, unpacked, or unloaded in the quarantined area.

(d) Without a certificate or limited permit, if the regulated article is moved:

(1) By the United States Department of Agriculture for experimental or scientific purposes;

(2) Pursuant to a Departmental permit for the regulated article;

(3) Under conditions specified on the Departmental permit and found by the Administrator to be adequate to prevent the spread of melon fly and,

(4) With a tag or label bearing the number of the Departmental permit issued for the regulated article attached to the outside of the container of the regulated article or attached to the regulated article itself if it is not in a container.

§ 301.97-5 Issuance and cancellation of certificates and limited permits.

(a) An inspector [2] will issue a certificate for the interstate movement of a regulated article if the inspector:

(1)(i) Determines that the regulated article has been treated under the supervision of an inspector, who must be present during the treatment, in accordance with § 301.97-10 of this subpart; or

(ii) Determines, based on inspection of the premises of origin, that the premises of origin are free from melon flies and the regulated article has not moved from the premises of origin since November 20, 1987.

(iii) Determines, based on inspection of the regulated article, that it is free of melon fly; and

(2) Determines that the regulated article is to be moved interstate in compliance with any additional emergency conditions the Administrator may impose under 7 U.S.C. 150dd to prevent spread of the melon fly;[3] and

(3) Determines that the regulated article is eligible for unrestricted interstate movement under all other federal domestic plant quarantines and regulations applicable to the regulated article.

(b) An inspector will issue a limited permit for the interstate movement of a regulated article if the inspector:

(1) Determines that the regulated article is to be moved interstate to a specified destination for specified handling, utilization, or processing (the destination and other conditions to be listed in the limited permit), and this interstate movement will not result in the spread of the melon fly because the melon fly will be destroyed by the specified handling, utilization, or processing;

(2) Determines that the regulated article is to be moved interstate in compliance with any additional emergency conditions the Administrator may impose under 7 U.S.C. 150dd to prevent the spread of the melon fly;[3] and

(3) Determines that the regulated article is eligible for interstate movement under all other federal domestic plant quarantines and regulations applicable to the regulated article.

(c) Certificates and limited permits for use for interstate movement of regulated articles may be issued by an inspector or a person operating under a compliance agreement. A person operating under a compliance agreement may issue a certificate for the interstate movement of a regulated article if the inspector has determined that the regulated article is otherwise eligible for a certificate in accordance with paragraph (a) of this section. A person operating under a compliance agreement may issue a limited permit for interstate movement of a regulated article when the inspector has determined that the regulated article is eligible for a limited permit in accordance with paragraph (b) of this section.

(d) Any certificate or limited permit that has been issued may be withdrawn by an inspector orally or in writing, if he or she determines that the holder of the certificate or limited permit has not complied with all conditions under this subpart for the use of the certificate or limited permit. If the withdrawal is oral, the withdrawal and the reasons for the withdrawal will be confirmed in writing within 20 days of oral notification of the withdrawal. Any person whose certificate or limited permit has been withdrawn may appeal the decision in writing to the Administrator within ten days after receiving the written notification of the withdrawal. The appeal must state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. Within 60 days after receipt of the appeal, or as soon as practicable after a hearing, if a hearing is held, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Administrator.

§ 301.97-6 Compliance agreement and cancellation.

(a) Any person who moves regulated articles interstate may enter into a compliance agreement when an inspector determines that the person understands this subpart.[4]

[2] Services of an inspector may be requested by contacting local offices of Plant Protection and Quarantine, which are listed in telephone directories. The addresses and telephone numbers of local offices of Plant Protection and Quarantine may also be obtained from National Programs, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782.

[3] Title 7 U.S.C. 150dd provides that the Secretary of Agriculture, or his or her delegates, may, under certain conditions, seize, quarantine, treat, destroy, or apply other remedial measures to articles which he or she has reason to believe are infested or infected by or contain plant pests.

[4] Compliance agreements may be arranged by contacting a local office of Plant Protection and

Continued

(b) Any compliance agreement may be cancelled orally or in writing by an inspector whenever the inspector finds that the person who has entered into the compliance agreement has failed to comply with this subpart or any conditions imposed pursuant to this subpart. If the cancellation is oral, the cancellation and the reasons for the cancellation will be confirmed in writing within 20 days of oral notification of the cancellation. Any person whose compliance agreement has been cancelled may appeal the decision, in writing, within ten days after receiving written notification of the cancellation. The appeal must state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully cancelled. Within 60 days after receipt of the appeal, or as soon as practicable after the hearing, if a hearing is held, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Administrator.

§ 301.97-7 Assembly and inspection of regulated articles.

(a) Any person (other than a person authorized to issue certificates or limited permits under § 301.97-5(c) of this subpart) who desires to move interstate a regulated article accompanied by a certificate or limited permit must, at least 48 hours before the desired interstate movement, request an inspector [2] to issue the certificate or limited permit.

(b) The regulated article must be assembled at the place and in the manner the inspector designates as necessary to comply with this subpart.

§ 301.97-8 Attachment and disposition of certificates and limited permits.

(a) A certificate or limited permit required for the interstate movement of a regulated article must, at all times during the interstate movement, be attached to the outside of the container containing the regulated article, attached to the regulated article itself if it is not in a container, or attached to the consignee's copy of the accompanying waybill: *Provided however,* that the requirements of this section may be met by attaching the certificate or limited permit to the consignee's copy of the waybill only if the regulated article is sufficiently described on the certificate, limited permit, or waybill to identify the regulated article.

(b) The certificate or limited permit for the interstate movement of a regulated article must be furnished by the carrier to the consignee at the destination of the regulated article.

§ 301.97-9 Costs and charges.

The services of the inspector between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except holidays, will be furnished without cost to persons requiring the services. The United States Department of Agriculture will not be responsible for any other costs or charges.

§ 301.97-10 Treatments.

(a) Treatment for soil within the drip area of plants that are producing or have produced the fruits, vegetables, and berries listed in § 301.97-2(a) of this subpart: Apply diazinon at the rate of 5 pounds active ingredient per acre to the soil within the drip area with sufficient water to wet the soil to at least a depth of ½ inch.

(b) Treatment schedules listed in the Plant Protection and Quarantine Treatment Manual to destroy melon fly on regulated articles are authorized treatments. The Plant Protection and Quarantine Treatment Manual is incorporated by reference in § 300.1 of this chapter, "Materials incorporated by reference."

Done at Washington, DC, this 5th day of February 1988.

James W. Glosser,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88-2836 Filed 2-9-88; 8:45 am]

BILLING CODE 3410-34-M

Quarantine (local offices are listed in telephone directories), or by contacting National Programs, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

Agricultural Stabilization and Conservation Service

7 CFR Part 713

Farm Marketing Quotas, Acreage Allotments, and Production Adjustment; Feed Grain, Rice, Upland and Extra Long Staple Cotton, Wheat, and Related Programs

AGENCY: Commodity Credit Corporation ("CCC"), and Agricultural Stabilization and Conservation Service ("ASCS"), USDA.

ACTION: Interim rule and request for comments.

SUMMARY: This interim rule amends the regulations found at 7 CFR Part 713 effective for the 1988 and subsequent years' crops of feed grains, rice, upland and extra long staple cotton, and wheat. Various changes are necessary to implement provisions of the Omnibus Budget Reconciliation Act of 1987 (the "1987 Act") with respect to: (1) The haying and/or grazing of acreages devoted to conserving uses or acreage conservation reserve (ACR) in accordance with the annual price support and production adjustment programs; (2) making deficiency payments available to producers of wheat and feed grains who elect to devote all or any portion of the permitted acreage of a crop on the farm to conserving uses if such acreage is considered to be planted to such a crop ("0/92 provision"); (3) the making of an advance payment equal to 75 percent of any increase in deficiency payments resulting from a reduction in the loan and purchase rate for wheat (the "Findley payment") by December 15 of the crop year if requested by the producer at the time of program enrollment; and (4) compensating producers whose farm program payment yield for the 1988 through 1990 crops of wheat, feed grains, upland cotton, or rice is established at less than 90 percent of the farm program payment yield for the crop in 1985.

Additionally, other changes are being made with respect to: (1) Amending § 713.1(b) with respect to those payments which are subject to statutory maximum payment limitations; (2) the adjustment of crop acreage bases (CAB's) to allow producers to comply with the conservation plan of operation (CPO) for their farm; (3) correcting an erroneous reference in § 713.109; and (4) the manner in which a determination is made as to whether a rental agreement is a share lease or a cash lease for purposes of program participation.

DATES: Effective Date: February 9, 1988.

Comments must be received on or before March 11, 1988, in order to be assured of consideration.

ADDRESS: Submit comments to: Director, Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Raymond K. Aldrich, Program Specialist, Cotton, Grain, and Rice Price Support Division, ASCS, P.O. Box 2415, Washington, DC 20013, (202) 447-6688.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under USDA procedures implementing Executive Order 12291 and Departmental Regulation 1512-1 and has been classified "not major". It has been

determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that Regulatory Impact Analyses are not required for the changes being made by this interim rule.

The titles and numbers of the Federal assistance programs to which this interim rule applies are: Cotton Production Stabilization—10.052; Feed Grain Production Stabilization—10.055; Wheat Production Stabilization—10.058; Rice Production Stabilization—10.065 as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since neither the Agricultural Stabilization and Conservation Service ("ASCS") nor the Commodity Credit Corporation ("CCC") is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Based on an environmental evaluation, it has been determined that the changes made herein to the regulations found at 7 CFR Part 713 will not have a significant impact on the environment and that an environmental impact statement is not required.

A draft environmental evaluation pertaining to agricultural acreage adjustment programs has been prepared. Further information is available from Phillip Yasnowsky, Program Analysis Division, ASCS, USDA, P.O. Box 2415, Washington, DC 20013; (202) 447-7887.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

The Office of Management and Budget has approved the information collection requirements contained in these regulations under the provisions of 44 U.S.C. Chapter 35 and OMB Numbers 0560-0030, 0560-0071, 0560-0091, and 0560-0650 have been assigned.

Discussion of Changes

In order to receive benefits under the annual Commodity Credit Corporation ("CCC") price support and production adjustment programs which are authorized by the Agricultural Adjustment Act of 1949, as amended (the "1949 Act"), a producer may be required to reduce the planted acreage of wheat, feed grains, upland and extra long staple cotton, and rice. This acreage must be devoted to uses which have been approved by CCC. With respect to the 1988 and subsequent crop years, this acreage must be devoted to "conserving uses", as defined in 7 CFR 713.3.

One of the benefits made available to producers is a deficiency payment. A deficiency payment is made if certain market prices are not attained during the marketing year which has been established for a crop. Prior to the enactment of the Food Security Act of 1985 (the "1985 Act"), which amended the 1949 Act with respect to the 1986-1990 crops, deficiency payments were made only with regard to the acreage actually planted to specified program crops for harvest. Effective for the 1986-1990 crops of wheat, feed grains, upland cotton and rice, the 1985 Act amended the 1949 Act to provide that a deficiency payment may be made with respect to a portion of the acreage on a farm which is devoted to approved conserving uses if the producer: (1) Planted an acreage of the program crop which is equal to 50 percent of the permitted acreage which has been established for the crop for a farm; and (2) devoted to approved conserving uses all, or a portion, of the remaining permitted acreage. In such a case, the deficiency payment is made with respect to that portion of the permitted acreage for which approved conserving use acreage in excess of 8 percent of the permitted acreage is designated. These provisions are commonly referred to as "50/92".

The Omnibus Budget Reconciliation Act of 1987 (the "1987 Act"), was approved December 22, 1987.

Sections 105C and 107D of the 1949 Act were amended by the 1987 Act to remove the 50/92 provisions with respect to producers of the 1988 through 1990 crops of wheat and feed grains and to provide for the making of deficiency payments to producers of wheat and feed grains who elect to devote all or a portion of the permitted acreage of such crops to conserving uses. The 1987 Act also provides that the payment rate which is to be used in making these payments shall not be less than the estimated deficiency payment rate for the crop. Accordingly, this interim rule will allow producers to designate an acreage in excess of 8 percent of the permitted acreage to conserving uses and receive payments based on the total of the planted acreage of the crop and such acreage which is devoted to conserving uses in an amount up to 92 percent of the permitted acreage. These provisions are commonly referred to as "0/92".

To minimize the adverse effect of the 0/92 provisions on agribusiness and other agriculturally related economic interests within a county, state or region, the total amount of acreage of a crop that may be taken out of production under production adjustment and conservation programs may result in a limitation on the amount of acreage which may be subject to the 0/92 provisions. Accordingly, producers who wish to use the 0/92 provisions must submit an offer to participate in the "0/92 program" by a date specified by CCC. In the event that a limitation is necessary, producers will be notified by certified mail of: (1) CCC's rejection of the producer's initial offer and CCC's modified offer; (2) the opportunity to reject CCC revised offer by the date established by CCC. Accordingly, the regulations found at §§ 713.50 and 713.108 are amended to include these provisions.

Sections 107D, 105C, 103A, and 101A of the 1949 Act were amended to allow producers of the 1988 and subsequent crops of wheat, feed grains, upland cotton, and rice to hay and graze acreages devoted to conserving uses or ACR and designated under any of the commodity and production adjustment programs, excluding the Conservation Reserve Program, except during a consecutive 5-month period, between April 1 and October 31, as established by the Agricultural Stabilization and Conservation (ASC) committee for a State, unless the Secretary determines that such haying and grazing would have an adverse economic effect. Accordingly, the regulations found at 7 CFR 713.63 and 713.102 are amended to include this provision.

Section 107D of the 1949 Act was amended by the 1987 Act to provide that, for the 1987 through 1990 wheat crops, producers may request an advance payment equal to 75 percent of the payment resulting from the downward adjustment of the price support loan and purchase rate (the "Findley payment"). Such payment shall be made no later than December 15 of the crop year except that, for the 1987 crop year, such payment is to be made available not later than 75 days after enactment of the 1987 Act. Accordingly, the regulations found at 7 CFR 713.108 are amended to include the revised dates for making such payments available to producers.

Section 506(b)(2) of the 1949 Act was amended by the 1987 Act to provide that additional compensation shall be made available to producers whose farm program payment yield for the 1988 through 1990 crops of wheat, feed grains, upland cotton, and rice is less than 90 percent of the 1985 farm program payment yield which was established for such a crop. Such additional compensation is to provide the producer the same total return as if the 1988 through 1990 farm program payment yield had been reduced by only 10 percent. Accordingly, the regulations found at 7 CFR 713.108 are amended to include this provision.

In addition to the amendments made by the 1987 Act which require the amendment of 7 CFR Part 713, this interim rule also makes several other changes in order to improve the administration of these programs. Accordingly, the following amendments to 7 CFR Part 713 have been made.

Sections 1211 and 1212 of the Food Security Act of 1985, as amended, provide that a producer will be ineligible to receive certain specified Federal benefits if the producer is farming highly erodible land, unless such producer is actively following an approved conservation plan. As it sometimes becomes necessary for such a producer to increase the acreage on a farm which is planted to a high residue program crop in order for the producer to be in compliance with the conservation plan, 7 CFR 713.12 is amended to provide that such a producer may request that the crop acreage bases on the farm be adjusted in order to conform to this plan.

The regulations found at 7 CFR 713.1(b) currently set forth those payments which are subject to the maximum payment limitation provisions of the 1985 Act. The types of payments which are subject to these limitations were substantially increased by Pub. L. 99–500 and 99–591. Since these regulations merely repeat the provisions of the 1985 Act, it has been determined that it is not necessary to refer to such payments in this section. Accordingly, 7 CFR 713.1(b) is revised by deleting references to the specific payments.

In order to participate in a CCC price support and production adjustment program which has been established for a crop of wheat, feed grains, upland and extra long staple cotton, and rice, producers must execute a contract to participate in the program with CCC during an enrollment period which is determined and announced by CCC. 7 CFR 713.50 is amended to set forth the requirements that a producer must follow in order to submit an offer to participate in the "0/92 program".

Section 504 of the 1959 Act sets forth the manner in which crop acreage bases are established. Section 504(b)(2) provides that in some instances an acreage which is planted to certain nonprogram crops may be considered to have been planted to the program crop. Section 504 specifically provides that peanuts, soybeans, and extra long staple cotton may not be considered as planted to a program crop. 7 CFR 713.102 sets forth the regulations which implement these provisions. These regulations, however, currently refer only to the exclusion of peanuts. Therefore, 7 CFR 713.102 is amended to include soybeans and extra long staple cotton as additional crops which may not be considered as planted in a program crop.

The division of farm program payments depends upon whether a rental agreement is a share lease or a cash lease. Accordingly, the regulations found in 7 CFR 713.109 are amended to clarify the manner in which such determinations are made.

The 1987 Act was not approved under December 22, 1987. Therefore, many major 1988 program determinations could not be made until after this date. Since many producers must make immediate decisions concerning their farming operations if they participate in these programs, it has been determined that this interim rule will become effective upon date of filing with the Director, Office of the Federal Register. Comments are requested, however, and will be taken into consideration in developing the final rule.

List of Subjects 7 CFR Part 713

Feed grains, Rice, Upland and extra long staple cotton, Wheat and related programs.

Interim Rule

Accordingly, the regulations found at Part 713 of Chapter VII of Title 7 of the Code of Federal Regulations are amended as follows:

PART 713—[AMENDED]

1. The authority citation continues to read as follows:

Authority. Secs. 101A, 103A, 105C, 107C, 107D, 107E, 109, 113, 401, 403, 503, 504, 505, 506, 507, 508, and 509 of the Agricultural Act of 1949, as amended; 99 Stat. 1419, as amended, 1407, as amended, 1395, as amended, 1444, 1383, as amended, 1448; 91 Stat. 950, as amended, 63 Stat. 1054, as amended, 99 Stat. 1461, 1461, as amended, 1462, 1463, 1463, 1464, 1464 (7 U.S.C. 1441–1, 1444–1, 1444b, 1445b–2, 1445b–3, 1445b–4, 1445d, 1445h, 1421, 1423, and 1461 through 1469); sec. 1001 of the Food Security Act of 1985, as amended, 99 Stat. 1444 (7 U.S.C. 1308); Sec. 1001 of the Food and Agriculture Act of 1977, as amended, 91 Stat. 950, as amended (7 U.S.C. 1309); Sec. 1009 of the Food Security Act of 1985, 99 Stat. 1453 (7 U.S.C. 1308a).

2. Section 713.1 is amended in paragraph (a) by removing "1987" and inserting in lieu thereof "1988"; and paragraph (b) is revised to read as follows:

§ 713.1 Applicability.

* * * * *

(b) *Payment limitations.* In accordance with section 1001 of the Food Security Act of 1985, as amended, the total amount of certain payments which a "person" may receive in accordance with the programs set forth in this part may not exceed limitation of $50,000 and $250,000. The manner in which a "person" is determined for these purposes is set forth at Part 795 of this chapter.

3. Section 713.12 is amended by revising paragraph (d) to read as follows:

§ 713.12 Adjusting crop acreage bases.

* * * * *

(d) Crop acreage bases established in accordance with 7 CFR 713.7 may be adjusted in accordance with instructions issued by the Deputy Administrator to reflect the amount of high residue crops which must be planted by producers on the farm in order to comply with the approved conservation plan for the farm.

* * * * *

4. Section 713.50 is amended by revising paragraph (a), redesignating paragraph (b) as paragraph (c) and adding a new paragraph (b) as follows:

§ 713.50 Contracting procedures.

(a) *Signup*—(1) *Acreage reduction and paid land diversion programs.* Eligible producers may offer to enter into a contract with CCC by executing a contract and submitting it to the county ASCS office where the records for the farm are maintained not later than a date specified in the announcement of the acreage reduction and paid land diversion program.

2) *"0/92" provisions.* Eligible producers of the 1988 crops of wheat and feed grains may offer to devote all or a portion of the permitted acreage of such crops on a farm to conserving uses and designate such acreage as either wheat or feed grains, as applicable, by submitting an offer to CCC in the manner prescribed by CCC in Form CCC–477 and any appendix and

addendum thereto. Such offer must be submitted to the county ASCS office where the farm records are maintained not later than a date specified in the announcement of the availability of such provisions. Offers may be accepted by CCC without modification by CCC. However, if the total acreage offered to be devoted to approved conserving uses in accordance with this section and the total amount of any acreage projected by CCC to be removed from production in accordance with an acreage reduction program, a paid land diversion program, and the Conservation Reserve Program is determined to have an adverse effect on agribusiness and other agriculturally related economic interests within a county, state, or region, CCC may reject an offer and may also submit a modified offer to the producer. CCC's modified offer shall be delivered by certified mail to the producer and, in addition to the details of CCC's offer, shall specify that the producer has a right to reject CCC's offer in writing by the date specified by CCC. In the event the producer does not reject CCC's offer by such date, the offer shall be deemed to have been accepted by the producer.

(b) *Extension of signup.* The signup period determined and announced in accordance with subsection (a) of this section may be extended for a producer or for all producers within a designated area under the terms and conditions announced by CCC in the event of the occurrence of a condition which is beyond the control of producers if CCC determines that such an extension will not affect adversely the administration of the respective program.

* * * * *

5. Section 713.63 is amended by revising paragraph (a) to read as follows:

§ 713.63 Use of ACR acreage.

(a) *Haying and grazing.* Haying and/or grazing of acreage devoted to conservation uses and designated as ACR shall be allowed except for a consecutive 5-month period between April 1 and October 31 as established by the State committee unless it has been determined by the Secretary, or a designee of the Secretary, that such haying and/or grazing would have an adverse economic effect.

* * * * *

6. Section 713.102 is amended by revising the introductory text of paragraph (e) and paragraph (f) to read as follows:

§ 713.102 Determination of farm program acreage.

* * * * *

(e) *Other nonprogram crops.* An acreage of other nonprogram crops, excluding peanuts, soybeans, and extra long staple cotton, shall be credited to a crop of rice, upland cotton, feed grains, or wheat only as follows:

* * * * *

(f) *Haying and grazing.* Haying and/or grazing of approved nonprogram crops and conserving use acreages credited as the program crop may be permitted only as follows:

(1) *Approved nonprogram crops.* Haying and/or grazing of approved nonprogram crops credited as the program crop shall only be permitted if requested by the State committee and the Secretary approves such request.

(2) *Conserving uses and ACR.* Haying and/or grazing of acreages devoted to conserving uses or ACR and designated to a program crop in accordance with the provisions of § 713.108 shall be permitted, except for a consecutive 5-month period between April 1 and October 31 as established by the State Committee, unless it has been determined by the Secretary, or a designee of the Secretary, that such haying and/or grazing would have an adverse economic effect.

* * * * *

7. Section 713.108 is amended by removing the second sentence in paragraph (a)(4) and by revising paragraph (b)(2)(i), (ii), (d)(5)(i), (ii) and (iii), and (e) to read as follows:

§ 713.108 Deficiency payments.

* * * * *

(b) * * *

(2) * * *

(i) If: (A) For upland cotton or rice, the acreage of the crop planted for harvest is less than 50 percent of the permitted acreage of the crop for the farm, or; (B) for wheat or feed grains, the farm is not subject to the provisions of § 713.50(a)(2), the farm program acreage shall not be increased above the actual planted acreage for 1988 and subsequent year's crops;

(ii) If: (A) For upland cotton or rice, the acreage of the crop planted for harvest equals or exceeds 50 percent of the permitted acreage, or; (B) for wheat or feed grains, the farm is subject to the provisions of § 713.50(a)(2), the farm program acreage shall be the sum of the following:

* * * * *

(d) * * *

(5) * * *

(i) *Wheat.* (A) December 1, but not later than December 15, with respect to 75 percent of such payment if the producer requested at the time of program enrollment that such an advance be made. (B) July 1, with respect to any remaining payment if such an advance payment has been made or if the producer has not requested such an advance payment.

(ii) *Barley and oats.* July 1.

(iii) *Corn and grain sorghum.* October 1.

(e) *Additional yield payments.* If, with respect to each of the 1988 through 1990 crops of wheat, feed grains, upland cotton, or rice, 90 percent of the 1985 farm program payment yield exceeds the farm program payment yield for the farm established in accordance with § 713.6, deficiency payments for such crops for each year shall be determined by multiplying the farm program acreage by 90 percent of the 1985 farm program payment yield by the deficiency payment rate.

8. Section 713.109 is revised to read as follows:

§ 713.109 Division of payments.

(a) *General.* Each producer on a farm shall be given the opportunity to participate in the program for a crop in proportion to such producer's interest in the program crop on the farm or the interest such producer would have had if the crop had been produced. The name of all such producers shall be listed on the contract. Federal agencies can earn no program payments, but any shares to which such agencies would otherwise be entitled shall also be shown on the contract as though the agencies were earning them. The sum of the percentage shares of the program payment shall equal 100 percent.

(b) *Division of program payment.* Each producer's share of the farm program payment for a crop shall be based on the following:

(1) *Cash lease.* If a rental agreement contains provisions for a guaranteed minimum rental with respect to the amount of rent to be paid to the landlord by a tenant, such agreement shall be considered to be a cash rental agreement. In addition, the rental agreement must be customary and reasonable for the area.

(2) *Share lease.* If a rental agreement contains provisions that require the payment of rent on the basis of the amount of the crop produced, or the proceeds derived from the crop, or the interest such producer would have had if the crop had been produced, such agreement shall be considered to be a share rental agreement. In addition, the rental agreement must be customary and reasonable for the area.

(3) *Adjustment by County Committee.* A different division of payment which is fair and equitable may be approved by

the county committee if all of the producers who would otherwise share in the payment agree to the different division in writing. Such different division of payments may be also be approved by the county committee, with the concurrence of a representative of the State committee, even though all of the producers do not agree with respect to the division of payment. In addition, a different division of payments may be approved by the county committee when required by § 713.151.

Signed at Washington, DC on February 3, 1988.

Vern Neppl,

Acting Executive Vice President, Commodity Credit Corporation, Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 88-2833 Filed 2-9-88; 8:45 am]

BILLING CODE 3410-05-M

Farmers Home Administration

7 CFR Parts 1901 and 1951

Grant Servicing

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its servicing and monitoring of grants regulations for Community Facility projects. This action is being taken to make FmHA's Community Facilities servicing regulations and civil rights compliance requirements consistent with OMB Circulars A-102, A-110, and USDA regulation 3015.

The intended effect of this action is to reduce the servicing workload of FmHA personnel and to make FmHA regulations consistent with OMB Circular A-102, A-110, and USDA regulations 3015.

EFFECTIVE DATE: February 10, 1988.

FOR FURTHER INFORMATION CONTACT: Jerry W. Cooper, Loan Specialist, Water and Waste Disposal Division, Farmers Home Administration, USDA, South Agriculture Building, Room 6328, Washington, DC 20250, telephone: (202) 382-9589.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be exempt from those requirements because it involves only internal Agency management.

It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits, or contracts, notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since it involves only internal Agency management and, therefore, publication for comment is unnecessary. This action will reduce the timeframe established for the Agency to monitor Grantee compliance with terms of the Grant Agreement. Therefore, the impact will be on internal Agency management, not the public.

FmHA's current servicing regulation has no termination date for servicing and monitoring FmHA grant financed projects. This action will not require any monitoring by FmHA after a grantee has completed all administrative actions, the planned work is completed, and FmHA accepts the final expenditure information. In the case of civil rights compliance reviews, the regulation will be revised so that no review will be required after the last advance of FmHA grant funds. The current civil rights compliance regulation requires compliance reviews for as long as the grant-financed facility is used for same or similar purpose as when the grant was made. This action will clarify the servicing of grants that are associated with loans sold by FmHA as required by the Omnibus Budget Reconciliation Act of 1986 as well as existing grants.

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.418, Water and Waste Disposal Systems for Rural Communities, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, 48 FR 29112, June 24, 1983, and 7 CFR Part 1940, Subpart J, *Intergovernmental Review of Farmers Home Administration Programs and Activities*).

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, *Environmental Program*. It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

This action amends FmHA's policies for servicing development grants. These grants assist in financing the development costs of domestic water and waste disposal systems, site acquisition and development grants to assist energy impacted areas, and Industrial Development to rural communities and/or other association of farmers, ranchers, rural resident, and other rural users.

List of Subjects

7 CFR Part 1901

Civil rights, Compliance reviews, Fair housing, Minority groups.

7 CFR Part 1951

Account servicing, Grant programs—Housing and community development, Loan programs—Housing and community development, Reporting requirements, Rural areas.

Therefore, Chapter XVIII, Title 7, Code of Federal Regulations, is amended as follows:

PART 1901—PROGRAM-RELATED INSTRUCTIONS

1. The authority citation for Part 1901 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 40 U.S.C. 442; 5 U.S.C. 301; 42 U.S.C. 2942; 7 CFR 2.23; 7 CFR 2.70.

Subpart E—Civil Rights Compliance Requirements *C*

2. In § 1901.204 paragraph (b)(3) is removed; and paragraphs (b)(1), (b)(2), and (e)(3)(i) are revised to read as follows:

§ 1901.204 Compliance reviews.

* * * * *

(b) * * *

(1) Until the loan is paid in full or otherwise satisfied; or sold through the sale of FmHA's assets; or,

(2) Until the last advance of grant funds is made for the grants listed in paragraph (a) of this section.

(e) * * *

(3) * * *

(i) For Water and Waste disposal organizations with loans that have had at least two compliance reviews after loan closing covering a six-year period, and where no discriminatory practices are indicated, the frequency of subsequent reviews may be reduced to six years.

* * * * *

PART 1951—SERVICING AND COLLECTIONS

3. The authority citation for Part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart E—Servicing of Community Program Loans and Grants

4. Section 1951.215 is revised to read as follows:

§ 1951.215 Grants.

No monitoring action by FmHA is required after grant closeout. Grant closeout is when all required work is completed, administrative actions relating to the completion of work and expenditure of grant funds have been accomplished, and FmHA accepts final expenditure information. However, grantees remain responsible in accordance with the terms of the grant agreement for property acquired with grant funds. The State Director is authorized to approve any servicing actions needed in accordance with the terms of the grant agreement.

Date: December 29, 1987.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 88-2838 Filed 2-9-88; 8:45 am]

BILLING CODE 3410-07-M

7 CFR Part 1942

Community Facility Loans and Grants

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule; Correction.

SUMMARY: This action corrects a final rule published November 2, 1987 (52 FR 41947). In this final rule a portion of 7 CFR Part 1942, § 1942.463(b)(4) of subpart J was omitted. The intent of this action is to insert the missing portion.

FOR FURTHER INFORMATION CONTACT: Jerry W. Cooper, Loan Specialist, Water and Waste Disposal Division, Farmers Home Administration, USDA, South Agriculture Building, Room 6328, Washington, DC 20250, telephone: (202) 382-9589.

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.418, Water and Waste Disposal Systems for Rural Communities, and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR Part 3105, Subpart V, 48 FR 29112, June 24, 1983, and 7 CFR Part 1940, Subpart J, "Intergovernmental Review of Farmers Home Administration Programs and Activities").

List of Subjects in 7 CFR Part 1942

Community development, Community facilities, Loan programs—Housing and community development, Loan security, Rural areas, Waste treatment and disposal—Domestic, Water supply—Domestic.

Accordingly, the Farmers Home Administration is correcting 7 CFR 1942.463(b)(4) published November 2, 1987 (52 FR 41947), page 41951 as follows:

PART 1942—[CORRECTED]

(1) The authority citation for Part 1942 continues to read as follows:

Authority: 7 U.S.C. 1989; 7 CFR 2.23; 16 U.S.C. 1005; 7 CFR 2.70.

Subpart J—Technical Assistance and Training Grants

(2) Section 1942.463 is amended by correcting paragraph (b)(4). As revised, paragraph (b)(4) reads as follows:

§ 1942.463 Preapplications.

* * * * *

(b) * * *

(4) Latest financial information to show the organization's financial capacity to carry out the proposed work. As a minimum, the information should include a balance sheet and an income statement. A current audit report is preferred.

* * * * *

Date: December 29, 1987.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 88-2839 Filed 2-9-88; 8:45 am]

BILLING CODE 3410-07-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 1, 20, 30, 40, 55, 70, and 73

Change of Region I Address

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: On January 14, 1988, the Nuclear Regulatory Commission (NRC) announced that its Region I Office had moved to a new location in King of Prussia, Pennsylvania. These amendments are being made to revise NRC's regulations containing Regional Office addresses to reflect the new address for Region I. The amendments are necessary to inform the public and affected licensees of the change of address.

EFFECTIVE DATE: February 10, 1988.

FOR FURTHER INFORMATION CONTACT: Donnie H. Grimsley, Director, Division of Rules and Records, Office of the Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-492-7211.

SUPPLEMENTARY INFORMATION: On January 14, 1988, the NRC announced an address change for its Region I Office (53 FR 972). The current commercial telephone number (215-337-5000) remains unchanged. The FTS switchboard number has been changed to 8-346-5000. Individual staff members may be reached by dialing FTS 8-346-5XXX, as the last three digits of their current telephone numbers remain the same as listed in the NRC Telephone Directory (NUREG/BR-0046).[1]

Because these amendments deal solely with agency organization and procedures, the notice and comment provisions of the Administrative Procedure Act do not apply under 5 U.S.C. 553(b)(A). These amendments are effective upon publication in the **Federal Register.** Good cause exists to dispense with the usual 30-day delay in the effective date, because the amendments are of a minor and administrative nature dealing with the agency's organization.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects

10 CFR Part 1

Organization and functions.

10 CFR Part 20

Byproduct material, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Special nuclear materials, Source material, Waste treatment and disposal.

10 CFR Part 30

Byproduct material, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Penalty,

[1] NUREG/BR-0046 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. 37082, Washington, DC 20013-7082.

Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 40

Government contracts, Hazardous materials—transportation, Nuclear materials, Penalty, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 55

Manpower training programs, Nuclear power plants and reactors, Penalty, Reporting and recordkeeping requirements.

10 CFR Part 70

Hazardous materials—transportation, Material control and accounting, Nuclear materials, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 73

Hazardous materials—transportation, Incorporation by reference, Nuclear materials, Nuclear power plants and reactors, Penalty, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR Parts 1, 20, 30, 40, 55, 70, and 73.

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

1. The authority citation for Part 1 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

2. In § 1.5, paragraph (b) is amended by revising the address for Region I to read as follows:

§ 1.5 Location of principal offices and Regional Offices.

* * * * *

(b) * * *

Region I, USNRC, 475 Allendale Road, King of Prussia, PA 19406.

* * * * *

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

3. The authority citation for Part 20 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as ameded (42 U.S.C. 5841).

4. In Appendix D, under the Addresses heading, the address for Region I is revised to read as follows and under the Telephone heading, the FTS telephone number for Region I is revised to read as follows:

Appendix D—United States Nuclear Regulatory Commission Regional Offices

	Addresses	Telephone (24 horus)
Region I..... * * *.....	USNRC, 475 Allendale Road, King of Prussia, PA 19406.	* * * (FTS) 346-5000.
* *	* *	*

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

5. The authority citation for Part 30 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

6. In § 30.6, paragraph (b)(2)(i) is revised to read as follows:

§ 30.6 Communications.

* * * * *

(b) * * *

(2) *Submissions*—(i) *Region I.* The regional licensing program involves all Federal facilities in the region and non-Federal licensees in the following Region I non-Agreement States and the District of Columbia: Connecticut, Delaware, Maine, Massachusetts, New Jersey, Pennsylvania, and Vermont. All inquiries, communications, and application for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must be sent to: U.S. Nuclear Regulatory Commission, Region I, Nuclear Material Section B, 475 Allendale Road, King of Prussia, Pennsylvania 19406.

* * * * *

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

7. The authority citation for Part 40 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

8. In § 40.5, paragraph (b)(2)(i) is revised to read as follows:

§ 40.5 Communications.

* * * * *

(b) * * *

(2) *Submission*—(i) *Region I.* The regional licensing program involves all Federal facilities in the region and non-Federal licensees in the following Region I non-Agreement States and the District of Columbia: Connecticut, Delaware, Maine, Massachusetts, New Jersey, Pennsylvania, and Vermont. All inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must be sent to: U.S. Nuclear Regulatory Commission, Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406.

* * * * *

PART 55—OPERATORS' LICENSES

9. The authority citation for Part 55 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

10. In § 55.5, paragraph (b)(2)(i) is revised to read as follows:

§ 55.5 Communications.

* * * * *

(b) * * *

(2) * * *

(i) If the nuclear reactor is located in Region I, submission must be made to the Regional Administrator, Region I, U.S. Nuclear Regulatory Commission, 475 Allendale Road, King of Prussia, Pennsylvania 19406.

* * * * *

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

11. The authority citation for Part 70 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

12 In § 70.5, paragraph (b)(2)(i) is revised to read as follows:

§ 70.5 Communications.

* * * * *

(b) * * *

(2) *Submissions*—(i) *Region I.* The regional licensing program involves all Federal facilities in the region and non-Federal licensees in the following Region I non-Agreement States and the District of Columbia: Connecticut, Delaware, Maine, Massachusetts, New Jersey, Pennsylvania, and Vermont. All inquiries, Communications, and applications for a new license or an amendment or renewal of an existing

license specified in paragraph (b)(1) of this section must be sent to: U.S. Nuclear Regulatory Commission, Region I, Nuclear Material Section B, 475 Allendale Road, King of Prussia, Pennsylvania 19406.

* * * * *

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

13. The authority citation for Part 73 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

14. In Appendix A, under the Addresses heading, the address for Region I is revised to read as follows and under the Telephone heading, the FTS telephone number for Region I is revised to read as follows:

Appendix A—United States Nuclear Regulatory Commission Regional Offices

	Addresses	Telephone (24 hours)
* * *	* *	*
Region I..... * * *.....	USNRC, 475 Allendale Road, King of Prussia, PA 19406.	* * * (FTS) 346-5000
* * *	* *	*

Dated at Bethesda, Maryland, this first day of February 1988.

For the Nuclear Regulatory Commission.

James. M. Taylor,

Acting Executive Director for Operations.

[FR Doc. 88-2797 Filed 2-9-88; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 18

[Docket No. 88-3]

Annual Financial Disclosures to Shareholders; Disclosure of Financial and Other Information by National Banks

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency ("Office") is adopting amendments to 12 CFR Part 18 requiring all national banks and federal branches and agencies to prepare and make available an annual disclosure statement to security holders, depositors, and other interested persons. The annual disclosure statement must be available by March 31 of each year or by such earlier date as shall be necessary for security holders in advance of the annual shareholders' meeting. The purpose of the amendments is to promote greater public confidence in national banks and the national banking system. Providing timely information concerning a bank's financial condition and results of operations and making that information more readily available should facilitate more informed decision-making by investors, depositors, and the general public.

EFFECTIVE DATE: This rule becomes effective March 11, 1988.

FOR FURTHER INFORMATION CONTACT: Emily R. McNaughton, National Bank Examiner, Commercial Activities Division, Comptroller of the Currency, 490 L'Enfant Plaza, East, SW., Washington, DC 20219, 202-447-1164.

SUPPLEMENTARY INFORMATION:

A. Overview

The Office, as the primary regulator for national banks, is responsible for fostering the safety and soundness of the national banking system. The Office believes that periodic financial disclosure is needed, not only to facilitate informed decision-making by existing and potential customers, but also to improve public understanding of the financial condition of individual banks. In the Office's view, improved financial disclosure should reduce the likelihood that the market will overreact to incomplete information. The Office believes that the required disclosure of financial information will complement its supervisory efforts and enhance public confidence in the banking system.

This final rule requires a national bank to prepare and make available an annual disclosure statement, beginning with data for calendar year 1987. Under the rule, the bank must display, in the lobby of the main office and in each branch, a notice of the annual disclosure statement's availability. Stockholders must similarly be notified in the bank's notice of its annual shareholders' meeting.

The data required to be disclosed in the annual disclosure statement are the same data that banks currently provide in the Reports of Condition and Income ("Call Reports"). The Office believes that the public is not generally aware that those reports are available from the Federal Deposit Insurance Corporation (FDIC). This rule will ensure that relevant data are more readily available to the general public and that the public is made aware of this availability.

The disclosures required by this rule represent the minimum a bank must make. National banks are free, and are encouraged, to make more frequent or expanded disclosures. For example, a bank might wish to supplement the required data with a narrative discussion of the financial statements. If the annual disclosure statement is to serve its purpose, such narratives should be written clearly, in terms that can be understood by the reader. Furthermore, each annual disclosure statement must include a legend stating that the Office has not verified or confirmed the accuracy of the information presented.

B. Background

This final rule is the result of three and one-half years of effort involving three requests for public comment on a disclosure program for national banks. On July 13, 1984, the Office published an Advance Notice of Proposed Rulemaking (49 FR 28566) soliciting comment on a wide range of issues relevant to developing an improved disclosure program for national banks. The 130 comments received were considered in seeking a second round of comment in the form of a Notice of Proposed Rulemaking, 50 FR 45372 (Oct. 30, 1985).

In this Notice, the Office proposed extensive amendments to Part 18 incorporating many disclosures currently required of banks and bank holding companies subject to the Securities Exchange Act of 1934 and Office regulations in 12 CFR Part 11. The Office received 706 comments, mostly from banks, bank holding companies, trade and banking organizations, and state banking associations. Two public hearings were held at which 25 witnesses representing banks, banking associations, and consumer groups testified. As a result of these comments, major changes were made in the proposal, which was then published for another round of comment, 52 FR 23456 (June 22, 1987).

C. Comments Received Regarding the Second Notice

Approximately 62 comments were received in response to the second Notice. With few exceptions, those who commented were banks, bank holding companies, state bankers associations, and other trade associations. Slightly more than half of the commenters favored the approach proposed, with many making recommendations for improvement. Described below are the

most significant issues and the Office's response.

1. Compliance Will Cause Unnecessary Burden

Burden was cited by numerous commenters as a reason not to implement a disclosure program. Large banks felt that their filings with the Securities and Exchange Commission (SEC) were sufficient and that requiring each bank in a holding company to disclose would be burdensome. Small banks felt that manpower constraints would make compliance difficult. On the other hand, several commenters stated that the proposal was not particularly burdensome and were pleased that the same data compiled in the Call Reports could be used to meet the rule's requirements.

The Office has made an effort to reduce the burden on banks by limiting the required disclosure to data compiled for the Call Reports. This final rule does not require the compilation or disclosure of new data.

2. The General Public Is Not Interested

Several commenters stated that the general public is not interested in the information; that the public's main interest is in FDIC insurance. For that reason, the commenters stated that preparation of the annual disclosure statement is unnecessary and that banks would receive few requests for the information. As further evidence of the public's lack of interest, they noted that few members of the general public took the opportunity to comment on the proposal.

The Office feels that the public is not necessarily disinterested in the information, but is probably not aware of its existence. By publicizing the availability of the information, the public may become more aware of it and thus request it. Even if individuals rarely request the annual disclosure statement, they will be aware, through the required lobby posting, that the information is available, and this in itself should foster greater public confidence in the banking system.

3. The Information Will Be Misunderstood

Several banks expressed concern that the media will misrepresent the information and unduly alarm the public. Moreover, some commenters suggested that the public probably would not understand the information. Current economic problems were also cited as a reason not to make the information more widely available.

The Office feels that a bank can reduce any misunderstanding by providing a narrative discussion of the data, an option included in this rule.

4. Enough Information Is Currently Available

Several commenters asserted that the information being required is already available to the public. For this reason, copying it or otherwise advertising its availability is unnecessary. People who want it can get it now.

However, several commenters stated that, while the information is currently available, the general public is not aware of it, and this regulation, with its required lobby posting, should increase awareness. The commenters asserted that the public needs to be reminded of the existence of the information and how to obtain it. This would give the public an opportunity to decide whether to request the information. The Office agrees, and believes that a lobby posting is the least costly means of securing this objective.

5. The Same Information Should Be Available From All Financial Institutions

Several commenters cited possible inconsistencies if all financial institutions are not required to prepare and disseminate comparable data. They asserted that in order to truly compare institutions, all should report similarly. The Office agrees and has sought to attain this objective in discussions with other federal regulatory agencies. The FDIC has adopted a similar regulation that would apply to state chartered non-member banks and insured state licensed branches of foreign banks. The Federal Reserve Board is considering a regulation for public comment to accomplish similar goals. Thus, it is anticipated that virtually all commercial banks will be disclosing on a comparable basis.

6. Banks Should Be Allowed to Charge a Reasonable Fee

Several commenters stated that shareholders are entitled to free financial information, but that others are not and therefore should be charged. Other commenters suggested that shareholders and current customers should receive the information without charge, but that the general public should be charged. A few commenters argued that the FDIC should provide the data.

One of the objectives of this regulation is to ensure that adequate information is easily available to enable a potential customer to compare one bank with another for the purpose of deciding where to do business. Accordingly, the information should be available at no cost to enable a potential customer the opportunity to review the information from several banks. For this reason, the Office decided that the first copy to each requestor should be without charge.

7. Make the Information Available by March 31

A few commenters suggested that the date by which the annual disclosure statement must be available should be changed to March 31 instead of March 1. They pointed out that SEC and 12 CFR 11 filings are not required until March 31. In addition, some expressed concern that their audited figures would probably not be available until after March 1.

The Office is concerned that by not requiring the information to be available until March 31, the information will be fully one quarter old. However, in an effort to minimize the burden of furnishing information sooner for one requirement (*i.e.*, 12 CFR Part 18), than for another (*i.e.*, 12 CFR Part 11), the Office has changed the availability date to March 31. The Office encourages banks to make every effort to have the information available prior to that date.

8. Differences Between GAAP and Regulatory Reporting Standards are Confusing

Several comments argued that accounting differences between regulatory reporting standards and General Accepted Accounting Principles (GAAP) can cause confusion and prevent a meaningful comparison of data provided by different banks. Accordingly, some commenters requested that all reporting conform to GAAP. In the Office's view, this final rule is not the appropriate vehicle to effect such a major change, but the suggestion will be considered in other contexts.

The Office agrees that, in some circumstances, confusion could arise by comparing statements prepared according to regulatory reporting standards with those prepared according to GAAP. However, the regulation does not require that a bank present statements according to regulatory reporting standards. If it wishes, a bank may present its annual disclosure statement using audited statements.

9. Another Required Lobby Posting Will Cause Clutter

Some banks suggested that requiring the addition of another lobby posting will only serve to add to the clutter in the lobby. They stated that no one

seems to pay much attention to the postings currently required. One commenter requested that size specifications for the posting be included in the regulation. Another commenter stated that the FDIC should provide the posting. Yet another requested that there be specific required language in the posting.

The lobby posting requirement was suggested by several commenters to the first Notice of Proposed Rulemaking. They stated that a lobby posting would be the best way to notify the public of the availability of information. The Office has chosen not to specify size requirements or language in the posting in an effort to give the bank an opportunity to gear the posting to its lobby size and structure. As noted earlier, the Office believes that the lobby posting will cause public awareness of the availability of the disclosures to increase, thereby promoting increased confidence in the banking system.

10. Exemptions

Several commenters cited three classes of banks that should be exempt from preparing an annual disclosure statement: Bank subsidiaries of one-bank holding companies with no significant non-bank subsidiaries; banks with fewer than a specified number of shareholders; and federal branches and agencies.

To promote confidence in individual banks and in the banking system as a whole, no national bank should be exempt from the requirements of this regulation. The number of shareholders is not relevant, since the disclosures are designed for the general public, including prospective customers. However, in the case of a one-bank holding company where the bank comprises at least 95% of the holding company's consolidated total assets and total liabilities, the bank may use the holding company's filing to comply with this regulation.

As far as federal branches and agencies are concerned, the Office feels that they should make disclosures similar to those required of national banks. For that reason, certain schedules of their Call Reports must also be disclosed.

11. Notice of Availability

Commenters expressed confusion regarding whether every branch had to have a supply of statements available and whether all holding company shareholders had to be notified of the availability of bank data.

Section 18.8 states that the bank must respond promptly to a request for an annual disclosure statement. As long as the required posting is in the lobby of each branch, there is nothing to preclude a bank from having a central distribution point from which to fill all requests. It is not necessary for all holding company shareholders to be notified of the availability of bank data.

D. Office Action

The Office has considered carefully the comments and testimony received. Further, the Office perceives a need for the public to become more aware that the banking system and its components are vital and healthy entities. Accordingly, the Office has attempted to design a disclosure program that will prove useful to the public without imposing an undue burden on national banks.

Therefore, the Office is publishing the following final revisions to Part 18. Each national bank and federal branches and agencies, beginning with calendar year 1987, shall prepare and make available an annual disclosure statement by March 31, 1988. This annual disclosure statement must contain required financial information and may contain an optional narrative discussion as set forth in § 18.4. Information contained in the annual disclosure statement is intended for the benefit of shareholders, depositors, and other interested persons. Shareholders will continue to be notified of the availability of the information before the annual meeting of shareholders, as currently provided in Part 18. Others will be notified through a notice prominently displayed in the lobby of the main office and each branch.

E. Discussion of Requirements

1. Annual Disclosure Statement (See § 18.4)

The annual disclosure statement must contain the same information, all of which currently is publicly available, provided in the following schedules from the bank's Call Report (this information is to be provided for the year being reported and the preceding year):

(a) Balance sheet (Schedule RC);

(b) Past Due and Nonaccrual Loans and Leases (Schedule RC–N) (Note: Loans and leases past due 30–89 days are not currently publicly available and need not be disclosed);

(c) Income Statement (Schedule RI);

(d) Changes in Equity Capital (Schedule RI–A); and

(e) Charge-Offs and Recoveries and Changes in Allowance for Loan and Lease Losses (Schedule RI–B).

In the case of federal branches and agencies, the following schedules of their Call Reports are required for the year being reported and the preceding year:

(a) Assets and Liabilities (Schedule RAL).

(b) Deposit Liabilities and Credit Balances (Schedule E).

(c) Other Borrowed Money (Schedule P).

2. Optional Narrative (See § 18.4(c))

The bank, at its option, may provide additional information that it deems significant including, for example, a narrative discussion. This narrative might include a discussion of the financial data and other information which bank management deems important to evaluate the condition of the bank. Under certain circumstances, the Office may require the disclosure of specific information, such as an enforcement action when the Office deems it in the public interest to disclose this information. Types of enforcement actions which might be disclosed include those addressing insider abuse.

3. Use of Shareholder Annual Report by Registered Banks (See § 18.5)

A national bank having a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 may meet the requirements of this rule by providing to requestors its annual report to shareholders prepared in accordance with the requirements of the Securities Exchange Act and the Office's rules in 12 CFR Part 11.

4. Notification and Delivery (See §§ 18.7 and 18.8)

National banks shall notify shareholders of the availability of the annual disclosure statement in conjunction with the notice of the annual shareholders' meeting. Banks shall notify the general public by posting a notice in the lobby of the main office and each branch office of the bank. The notice, prominently displayed at all times, shall state that the annual disclosure statement is available and provide information about how to obtain it.

The bank may not charge for the first copy requested by any person and must supply the information promptly.

5. Disclosure of Examination Reports (See § 18.9)

While banks are encouraged to supplement the minimum disclosure of financial information with other information about the bank as appropriate, banks are not permitted to disclose any report of examination or

other report of supervisory activity, or any portion thereof, prepared by the Office.

6. Prohibited Conduct and Safe Harbor (See §§ 18.10 and 18.11)

Banks shall not provide false or misleading information, or omit pertinent information. Information about future prospects, based on accurate current information will not be considered false or misleading if the prospects are not ultimately fulfilled. By providing a safe harbor from penalty provisions, the Office seeks to encourage bank management to present information concerning future direction and plans.

7. Penalties (See § 18.10)

Violations of § 18.10 of the rule may subject the bank, its officers, directors, employees, or others participating in its affairs, to enforcement action by the Office. The precise nature of any action would, of course, depend on the particular facts and circumstances. The Office could, for example, assess civil money penalties.

F. This Final Rule Versus Current 12 CFR Part 18

Currently, Part 18 requires disclosure of certain financial information to shareholders of national banks. However, there are three major differences between the present disclosure requirement and this final rule. The first difference is that this rule requires that information be made available to the general public, as well as shareholders. The second major difference is that the annual disclosure statements will include past due loan information currently available to the public in the Call Report. The third difference is that the bank may supplement the minimum disclosure requirement with information it deems important.

G. Regulatory Flexibility Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 5 U.S.C. 601 et seq.), this final rule will not have a significant economic impact on a substantial number of small entities.

H. Executive Order 12291

Pursuant to Executive Order 12291, it has been determined that this final rule will not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions; and will not have an adverse effect on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

I. Paperwork Reduction Act

The collection of information requirements contained in this final rule have been approved by the Office of Management and Budget under the Paperwork Reduction Act under OMB control number 1557-0182.

J. List of Subjects in 12 CFR Part 18

National banks, Banking, Disclosure, Financial information, Depositors, Shareholders.

Authority and Issuance

For the reasons set forth in the Preamble, Part 18 of Chapter I of Title 12 of the Code of Federal Regulations is revised to read as follows:

1. Part 18 is revised to read as follows:

PART 18—DISCLOSURE OF FINANCIAL AND OTHER INFORMATION BY NATIONAL BANKS

Sec.

18.1 Purpose and OMB control number.
18.2 Definitions.
18.3 Preparation of annual disclosure statement.
18.4 Contents of annual disclosure statement.
18.5 Alternative annual disclosure statements.
18.6 Signature and attestation.
18.7 Notice of availability.
18.8 Delivery.
18.9 Disclosure of examination reports.
18.10 Prohibited conduct and penalties.
18.11 Safe harbor provision.

Authority: 12 U.S.C. 93a, 161, and 1818.

§ 18.1 Purpose and OMB control number.

(a) *Purpose.* The purpose of this part is to require all national banks and federal branches and agencies to prepare an annual financial disclosure statement, and to make this statement available to security holders, depositors, and anyone who requests it. The bank may, at its option, supplement this financial disclosure statement with narrative information management deems important. The availability of this information is expected to promote better public understanding of, and confidence in, individual national banks and the national banking system. The annual disclosure statement will serve to complement the Office's supervisory efforts to promote bank safety and soundness and public confidence in the national banking system.

(b) *OMB control number.* The collection of information requirements contained in this part were approved by the Office of Management and Budget under OMB control number 1557-0182.

§ 18.2 Definitions.

Unless otherwise defined in this part, the terms used have the same meaning as in the instructions to the Consolidated Reports of Condition and Income ("Call Reports").

§ 18.3 Preparation of annual disclosure statement.

(a) Beginning with calendar year 1987, each national bank and federal branch and agency shall prepare an annual disclosure statement as of December 31. The annual disclosure statement shall contain information required by § 18.4 (a), (b) and (d) may include other information that bank management believes important, as discussed in § 18.4(c).

(b) The annual disclosure statement shall be available by March 31 of each year, or by an earlier date as necessary to be made available to security holders in advance of the annual meeting of shareholders. A bank shall continually make its annual disclosure statement available until the annual disclosure statement for the succeeding year becomes available.

§ 18.4 Contents of annual disclosure statement.

(a) *Information concerning financial condition and results of operations.* The annual disclosure statement for any year shall reflect a fair presentation of the bank's financial condition at the end of that year and the preceding year. The annual disclosure statement may, at the option of bank management, consist of the bank's entire Call Reports, or applicable portions thereof, for the relevant periods. At a minimum, the statement must contain the same or comparable information as provided in the following Call Report schedules.

(1) For national banks:

(i) Schedule RC (Balance Sheet);

(ii) Schedule RC-N (Past Due and Non accrual Loans and Leases—column A and memorandum Item #1 need not be included);

(iii) Schedule RI (Income Statement);

(iv) Schedule RI-A (Changes in Equity Capital); and

(v) Schedule RI-B (Charge-Offs and Recoveries and Changes in Allowance for Loan and Lease Losses—Part I may be omitted).

(2) For federal branches or agencies:

(i) Schedule RAL (Assets and Liabilities);

(ii) Schedule E (Deposit Liabilities and Credit Balances); and

(iii) Schedule P (Other Borrowed Money).

(b) *Other required information.* The annual disclosure statement shall include such other information as the Office may require. This may include a discussion of enforcement actions when the Office deems it in the public interest.

(c) *Optional narrative.* Bank management may, at its option, provide a narrative discussion to supplement the annual disclosure statement. This narrative may include information that bank management deems important in evaluating the overall condition of the bank. Information that bank management might present includes, but is not limited to, a discussion of the financial data; pertinent information relating to mergers and acquisitions; the existence and underlying causes of enforcement actions; business plans; material changes in balance sheet and income statement items; and future plans.

(d) *Disclaimer.* The following legend shall be included in the annual disclosure statement to advise the public that the Office has not reviewed the information contained therein: "This statement has not been reviewed, or confirmed for accuracy or relevance by the Office of the Comptroller of the Currency."

§ 18.5 Alternative annual disclosure statements.

The § 18.3(a) requirement to prepare an annual disclosure statement is satisfied:

(a) In the case of a national bank having a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934, by its annual report to security holders for meetings at which directors are to be elected (see 12 CFR 11.503) or its annual report on Form F–2 (see 12 CFR 11.301);

(b) In the case of a national bank with audited financial statements, by those statements, provided all of the required information is included;

(c) In the case of a bank subsidiary of a one-bank holding company, by an annual report of the one-bank holding company prepared in conformity with the regulations of the Securities and Exchange Commission or by schedules from the holding company's consolidated financial statements on Form FR Y–9c pursuant to Regulation Y of the Federal Reserve Board (12 CFR Part 225). Such schedules must be comparable to the Call Report schedules enumerated in § 18.4(a). In either case, not less than 95 percent of the holding company's consolidated total assets and total liabilities must be attributable to the bank and the bank's subsidiaries.

§ 18.6 Signature and attestation.

A duly authorized officer of the bank shall sign the annual disclosure statement and shall attest to the correctness of the information contained in the statement if the financial reports are not accompanied by a report of an independent accountant.

§ 18.7 Notice of availability.

(a) *Shareholders.* In its notice of the annual meeting of shareholders, each national bank shall indicate that any person may obtain the annual disclosure statement from the bank, and shall include the address and telephone number of the person or office to be contacted for a copy. The first copy shall be provided without charge.

(b) *Depositors, Other Security Holders, and the General Public.* In the lobby of its main office and each branch, each national bank shall prominently display, at all times, a notice that any person may obtain the annual disclosure statement from the bank. The notice shall include the address and telephone number of the person or office to be contacted for a copy. The first copy shall be provided without charge.

§ 18.8 Delivery.

Each national bank shall, after receiving a request for an annual disclosure statement, promptly mail or otherwise furnish the statement to the requester.

§ 18.9 Disclosure of examination reports.

Except as permitted under Part 4 of this chapter, a national bank may not disclose any report of examination or report of supervisory activity, or any portion thereof, prepared by the Office of the Comptroller of the Currency. The bank also shall not make any representation concerning such report or the findings therein.

§ 18.10 Prohibited conduct and penalties.

(a) No national bank, or officer, director, employee, agent, or other person participating in the affairs of a bank, shall, directly or indirectly;

(1) Disclose or cause to be disclosed false or misleading information in the annual disclosure statement, or omit or cause the omission of pertinent or required information in the annual disclosure statement; or

(2) Represent that the Office of the Comptroller of the Currency, or any employee thereof, has passed upon the accuracy or completeness of the annual disclosure statement.

(b) For purposes of this part, a person "participating in the affairs of a national bank" includes (but is not limited to) any person who provides information contained in, or directly or indirectly assists in the preparation of, the annual disclosure statement.

(c) Conduct which violates paragraph (a) of this section also may constitute an unsafe or unsound banking practice or otherwise serve as a basis for enforcement action by the Office. This includes, but is not limited to, the assessment of civil money penalties against the bank or any officer, director, employee, agent or other person participating in the affairs of the bank who violates this part.

§ 18.11 Safe harbor provision.

The provisions of § 18.10(c) shall apply unless it is shown by the person or bank involved that the information disclosed was included with a reasonable basis or in good faith.

Date: December 23, 1987.

Robert L. Clarke,

Comptroller of the Currency.

[FR Doc. 88–2646 Filed 2–9–88; 8:45 am]

BILLING CODE 4810–33–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1015

Freedom of Information Act; Congressional Requests

AGENCY: Consumer Product Safety Commission.

ACTION: Final amendment.

SUMMARY: The Commission's Freedom of Information Act regulations direct that records be disclosed to Congress when requested by the chairman of a committee or subcommittee acting pursuant to committee business and having appropriate jurisdiction. To give ranking minority members the same access to Commission information as the chairmen, the Commission is amending this regulatory provision to make it applicable to requests from ranking minority members of such committees and subcommittees.

DATE: The amendment became effective as an interim measure on December 1, 1987. It becomes effective as a final amendment on February 10, 1988.

FOR FURTHER INFORMATION CONTACT: Alan Shakin, Assistant General Counsel, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492–6980.

SUPPLEMENTARY INFORMATION: The Commission's Freedom of Information Act (FOIA) regulations contained the

following provision: "All records of the Commission shall be disclosed to Congress upon a request made by the chairman of a committee or subcommittee of Congress acting pursuant to committee business and having jurisdiction over [the] matter about which information is requested." 16 CFR 1015.12(a)

This regulatory provision was based on section 6(a)(7) of the Consumer Product Safety Act: "Nothing in this Act shall authorize the withholding of information by the Commission or any officer or employee under its control from the duly authorized committees or subcommittees of the Congress, and the provisions of paragraphs (2) through (6) [of section 6(a)] shall not apply to such disclosures, except that the Commission shall immediately notify the manufacturer or private labeler of any such request for information designated as confidential by the manufacturer or private labeler." 15 U.S.C. 2055(a)(7).

The Commission believes that ranking minority members of (sub)committees should have the same access to Commission information as the chairmen of those (sub)committees. Therefore, the Commission amended its regulation, on an interim basis, to make this point clear. The statute refers only to duly authorized committees and subcommittees, and does not specify that a request for information must be made by their chairman.

The Commission issued the interim amendment on December 1, 1987. 52 FR 45631-32. At the same time, the Commission requested public comment on the interim amendment, no later than December 31, 1987. (Under the Administrative Procedure Act, notice and comment is not required for the issuance or amendment of interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice. 5 U.S.C. 553(b).)

The Commission received two comments, both of them letters from congressmen and both supportive of the amendment. The first letter was from the Honorable Larry E. Craig, Ranking Minority Member of the Subcommittee on Commerce, Consumer, and Monetary Affairs of the House Committee on Government Operations. Congressman Craig noted that under the revised regulation "both the Majority and Minority leadership will be able to more fully perform their statutory responsibilities within their Committee and Subcommittee designation as it relates to the Consumer Product Safety Commission." He further stressed that the Majority and Minority leadership must have independent access to Commission information "in order to freely engage in reasoned deliberation."

The second letter was signed by three Republican Members of the Subcommittee on Commerce, Consumer Protection and Competitiveness of the House Committee on Energy and Commerce: the Honorable William E. Dannemeyer (Ranking Republican Member), the Honorable Don Ritter, and the Honorable Howard C. Nielson. It was also signed by the Honorable Thomas J. Bliley, Ranking Republican Member of the Subcommittee on Oversight and Investigations of the same House Committee. Their letter supported final adoption of the amendment, based on the principle that "it is essential to the effective functioning of our two-party system that Minority party Members be able to receive information on an equal basis with their Majority party colleagues." The letter added, as a note of caution, that the Congressman's endorsement of the amendment "[does] not mean to suggest that the Consumer Product Safety Commission has the authoirty, by its own rules, to limit the access of Congress to information."

After reviewing the two comments, the Commission has decided to issue the amendment in final form, unchanged from the interim amendment. In addition, please note:

1. For clarification, the word "the" has been added between the words "over" and "matter."

2. The amendment is not a Commission action within the categories listed at 16 CFR 1021.5(b) having a potential for producing environmental effects. Therefore, neither an environmental assessment nor an environmental impact statement is required.

3. The Commission certified that the interim amendment, because it would only affect members of Congress, would not have a significant economic impact on a substantial number of small entities, under the Regulatory Flexibility Act. 5 U.S.C. 603(3).

List of Subjects in 16 CFR Part 1015

Freedom of Information, Records.

Pursuant to 15 U.S.C. 2051 *et seq.*, the Commission hereby amends 16 CFR Part 1015 as follows:

PART 1015—PROCEDURES FOR DISCLOSURE OR PRODUCTION OF INFORMATION UNDER THE FREEDOM OF INFORMATION ACT

1. The authority citation for Part 1015 continues to read as follows:

Authority: 15 U.S.C. 2051, 15 U.S.C. 1261, 15 U.S.C. 1471, 15 U.S.C. 1211, 15 U.S.C. 1191, 5 U.S.C. 552.

2. Section 1015.12 is amended by revising paragraph (a) to read as follows:

§ 1015.12 Disclosure to Congress.

(a) All records of the Commission shall be disclosed to Congress upon a request made by the chairman or ranking minority member of a committee or subcommittee of Congress acting pursuant to committee business and having jurisdiction over the matter about which information is requested

* * * * *

Dated: February 4, 1988.

Sheldon D. Butts,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 88-2790 Filed 2-9-88; 8:45 am]

BILLING CODE 6355-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 270, and 274

[Release Nos. 33-6753; IC-16245; File No. S7-23-86]

Advertising by Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of rules, and amendments to rules, forms, and guidelines.

SUMMARY: The Commission is adopting new rules and amendments to several rules and forms under the Securities Act of 1933 and Investment Company Act of 1940 affecting the advertising of mutual funds and insurance company separate accounts offering variable annuity contracts. The rules and amendments (1) standardize the computation of mutual fund performance data in advertisements and sales literature; (2) require certain risk and other disclosures in sales material; (3) eliminate the requirement to file sales material with the Commission if it is filed with the National Association of Securities Dealers; and (4) clarify that investment companies must maintain sales material for inspection by Commission staff. The new rules and amendments will enhance investors' ability to compare and evaluate investment company performance claims while reducing investment company filing obligations.

EFFECTIVE DATE: May 1, 1988.

FOR FURTHER INFORMATION CONTACT: Thomas S. Harman, Chief of Office, or Robert E. Plaze, Special Counsel, (202) 272-2107, Office of Disclosure and Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") today is adopting:

(1) Amendments to rule 482 (17 CFR 230.482) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) ("1933 Act") and Forms N-1A, N-3, and N-4 (17 CFR 274.11A, 274.11b, and 274.11c) under the 1933 Act and Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) ("1940 Act") to standardize the computation of certain performance data advertised by investment companies.[1] The amendments permit fund advertisements to quote a uniformly calculated yield, tax equivalent yield, total return, and to quote performance by non-standardized total return quotations provided that any yield or non-standardized total return quotation is accompanied by uniformly calculated one year, five year, and ten year average total return quotations. These total return quotations are based on "rolling" twelve month periods that must be updated quarterly.

(2) Amendments to rule 420 under the 1933 Act (17 CFR 230.420) to permit the text of rule 482 advertisements to be as small as (but no smaller than) 8-point type.

(3) Amendments to rule 482 to (i) require fund advertisements containing performance data to explain the historical nature of the data and emphasize the risks of principal and income fluctuations, and (ii) preclude funds from including purchase applications in rule 482 advertisements. The addition and amendment of notes to the rule will remind issuers, underwriters, and dealers sponsoring ads of their responsibilities in connection with rule 482 advertisements under the Federal securities laws.

(4) Amendments to Forms N-1A, N-3, and N-4 to revise the format of prospectus disclosure of performance data. The amendments require a fund to include in its prospectus a brief description of how performance information used in advertising is calculated and to provide an example and a more detailed explanation in the Statement of Additional Information ("SAI"). An exhibit requirement will be added to the registration statement to allow the Commission staff to review performance calculations.[2]

(5) New rule 24b-3 under the 1940 Act and amendments to rules 424 and 497 under the 1933 Act (17 CFR 230.424 and 230.497) to relieve investment companies of their obligation to file sales material with the Commission if it is filed with the National Association of Securities Dealers ("NASD"); amendments to rule 499 under the 1933 Act (17 CFR 230.499) to exempt investment companies filing electronically from the prospectus filing requirements under certain circumstances; and an amendment to rule 31a-2 under the 1940 Act (17 CFR 270.31a-2) to clarify that investment companies must maintain sales material for inspection by the Commission.

(6) New rule 34b-1 under the 1940 Act to make the uniform performance calculations and disclosure requirements of rule 482 applicable to fund sales literature.

The Commission also is publishing related amendments to staff guidelines for the preparation of registration statements on Forms N-1A, N-3, and N-4. Finally, the release sets forth interpretive positions on several issues relating to fund advertising to provide guidance or address problems concerning appropriate disclosure.[3]

Table of Contents

I. Background
II. Standardized Performance Data
  1. Definition of An Income Fund
  2. Calculation of Yield
  3. Requirement That Yield be Accompanied by Total Return
  4. Use of the Term "Yield"
  5. Distribution Rates
  6. Tax Equivalent Yield
  7. Separate Accounts
  8. Equity Funds
  9. Method of Standardizing the Presentation and Calculation of Total Return
  10. Subsidization
III. Sales Literature
IV. Presentation of Performance Data in the Prospectus
V. Additional Amendments to Rule 482
  1. Required Disclosure
  2. Type Size
  3. Prominence of Performance Quotations
  4. Stale Performance Data
  5. Miscellaneous Amendments to Rule 482
VI. Filing Sales Materials and Prospectuses
VII. Regulatory Flexibility Analysis
VIII. Text of New Rules, Rule Amendments, and Form Amendments

I. Background

On September 17, 1986, the Commission proposed new rules and amendments to rules and forms that would, among other things, standardize the computation of fund performance data used in advertisements (the "Proposals").[4] The Proposals were prompted by a tremendous growth in non-money market funds [5] and a concomitant growth in fund advertisements quoting performance data. The Commission was concerned that investors could not compare performance claims because no prescribed methods of calculating fund performance existed (except for money market funds), and because funds were being advertised on the basis of different types of performance data. In addition, the Commission expressed concern that some of the methods being used distorted performance. The Proposals were designed to prevent misleading performance claims by funds and to permit investors to make meaningful comparisons among fund performance claims in advertisements.

The Proposals were preceded by a proposal submitted to the staff by the Investment Company Institute ("ICI"), a mutual fund industry trade group, to standardize yield and distribution rate quotations of income funds ("ICI proposal"). The ICI proposal would have the Commission prescribe a mandatory, compounded, annualized, thirty-day yield formula and a twelve month distribution rate formula for funds whose primary investment objective is the production of current income through investment in debt obligations. A significant feature of the ICI proposal was that it would prescribe accounting rules for measuring fund income, which would avoid the variations that now result from reliance on generally accepted accounting principles, but would require funds to use accounting rules in computing performance that may differ from those used for other purposes.

The Proposals would have limited the performance data advertised by income funds to a uniformly computed yield quotation (based largely on the formula

[1] For convenience, the release refers to open-end management investment companies and insurance company separate accounts as "mutual funds" or "funds."

[2] The amendments to Forms N-1A, N-3, and N-4, as well as rule 482, require that funds which intend to advertise their performance on or after May 1, 1988, have in place an amended registration statement by May 1, 1988. Funds advertising performance on or after May 1, 1988, must include the uniformly computed performance data and required disclosures in their advertisements.

[3] *See* Sections II.7, II.10, and V.1, and notes 17 (and accompanying text), 19, 21, 31, 48, and 51.

[4] Securities Act Release No. 6660; Investment Company Act Rel. No. 15315 (Sept. 17, 1986) [51 FR 34384 (Sept. 26, 1986)] ("proposing release" or "Release 6660").

[5] Assets of non-money market funds had grown from $58.4 billion in 1980 to $356 billion by the end of June 1986. They had grown to $446 billion at the end of October 1987. Source: Investment Company Institute.

suggested by the ICI) and would have required that it be accompanied by uniformly computed total return quotations covering the five most recently completed calendar years and any subsequent interim period. The Proposals would have limited the advertisement of performance data of all other funds (except money market funds) to uniformly calculated total return quotations covering the same periods. In addition, the Proposals addressed a number of other advertising-related issues. Specifically, the Proposals would: (1) Amend rule 482 to require that advertisements relying on that rule emphasize the risk of principal and income fluctuations; (2) preclude rule 482 advertisements from including purchase applications; (3) add a note to rule 482 to clarify the Commission's view that for purposes of the securities laws, a fund advertisement stands alone, *i.e.*, in considering whether an advertisement is misleading, the Commission will look only to the advertisement; (4) amend rule 482 to require that (i) advertisements that quote several performance figures give equal prominence to each, and (ii) advertised performance data be current, and in no case more than thirty days old; (5) propose new rule 24b–3 to relieve investment companies from their obligation to file sales literature with the Commission if it is filed with the NASD; (6) amend rule 31a–2 to clarify that investment companies must maintain sales material for inspections; (7) add a new rule 34b–1 to make the uniform performance calculations applicable to fund sales literature; and (8) reallocate and streamline performance data disclosure in the three parts of the registration statement.

The Commission received forty-six comment letters on the Proposals which, together with a summary of the letters prepared by Commission staff, are included in File No. S7–23–86. The comment letters reflect a wide variety of views on almost every topic discussed by the Proposals.

II. Standardized Performance Data

1. Definition of An Income Fund

As noted above, the Proposals would limit income funds to advertising a uniformly computed yield accompanied by total return information covering each of the five preceding calendar years. Under the Proposals, only income funds could quote a yield. As amended, the rules permit all funds to advertise yield.

The Proposals defined an income fund as a fund that (1) has as its principal investment objective the production of current income primarily through investment in debt obligations, and (2) has a dollar-weighted average of at least 95 percent of its net assets invested in debt obligations during the measuring period. This definition, and in particular the 95 percent test, would have essentially limited yield advertising to bond funds. The 95 percent test was included in the definition to prevent the distortion of yield that could occur because of the "clustering" of equity security dividend distributions during certain times of the year.[6]

Many commenters criticized this definition as too restrictive. The 95 percent test particularly concerned commenters because of its application to "corporate cash management funds," which invest in dividend-paying preferred stocks to permit their corporate investors to take advantage of the inter-corporate dividend deduction of federal tax law. Commenters argued that investors in those funds are primarily concerned with yield because of the tax benefits of their dividends. Other commenters claimed that yield advertising is also important for utility, equity income, and balanced funds. Some commenters suggested that the "clustering problem" be resolved by permitting a fund to recognize as income, on a daily basis, a pro rata portion of an equity security's stated dividend each day of the base period that the security is held in the fund's portfolio, thus "normalizing" the recognition of dividend income from equity securities. In addition, commenters suggested that the limitation of yield quotations to funds having as a principal investment objective the production of current income was unnecessary because funds not having a substantial amount of income would not normally wish to quote a yield.

The Commission is persuaded that, using the normalization technique suggested by commenters to resolve the "clustering problem," it is not necessary to limit use of a yield quotation to income funds holding mostly debt obligations. Therefore, as amended, rule 482 permits all funds to advertise yield.[7]

2. Calculation of Yield

The proposed yield formula, which is being adopted largely as proposed, was based on a formula proposed by the ICI. It computes yield by dividing a fund's net investment income per share during the base period by the maximum offering price on the last day of the base period. Most commenters agreed with the basic formula, although elements of the formula were the subject of extensive comment and disagreement among commenters.

(a) Base Period

The Commission requested comment in the proposing release on whether permitting a choice between a thirty-day or one month period could materially affect yield and whether it might be preferable to select one or the other period. Commenters acknowledged that the selection of one or the other period can affect yield but urged the Commission to permit use of either because many funds would find yield difficult to calculate for thirty-day periods that do not coincide with months, while the thirty-day period option would permit more timely yield quotations since it allows for rolling thirty-day periods. The Commission has decided to retain the thirty-day or one month choice, but has modified the formula to assume that each month has thirty days. Therefore, in all cases yields will be quoted for thirty-day periods, although advertisements may refer to the yield of a particular month.

(b) Shares Outstanding

To determine the net investment income per share, the proposed yield calculation would divide the net investment income obtained from the fund's portfolio by the average daily number of shares outstanding during the base period, less those shares for which payment was not made by the last day of the period. Three commenters stated that this calculation would be difficult for most funds, which have accounting systems that are not set up to look back to determine the number of shares for which the purchase transactions have not been settled. Instead, they recommended use of the average daily number of shares outstanding during the period that were eligible to receive dividends. Two commenters supported

[6] Issuers of equities tend to pay dividends clustered around calendar quarters. Under generally accepted accounting principles, a fund must recognize the entire amount of any dividend as income on the ex-dividend date, although interest from debt obligations must be accrued daily. The proposed yield formula was based on an annualized thirty-day (or one month) period ("base period"). Because of the short period, the clustering of dividends could result in either unrepresentatively high or low yields being advertised by funds holding significant amounts of equity securities. The annualization of the thirty-day yield under the Proposal and the receipt of any extraordinary dividends during the base period would exacerbate the clustering problem.

[7] The rule does not define the term "income fund," as was proposed. For convenience, however, references in this release to income funds refer to those funds qualifying as income funds under the Proposals. *See supra.*

the Commission's proposed method, arguing that the alternative disadvantaged those funds that pay income dividends less frequently than daily because they have more shares eligible to receive dividends. The Commission has modified the formula so that it uses the average number of shares entitled to receive dividends.

(c) Compounding

The proposed yield formula provided for a simple annualization of the base period yield, *i.e.*, it provided for no compounding of income. Five commenters urged the Commission to adopt a formula using a "bond-equivalent" annualization method that assumes that net investment income is earned and reinvested at a constant rate and annualized at the end of a six-month period. They argued that such a method would be consistent with the method used to calculate the yield of bonds held by most funds advertising a yield. The Commission has decided to modify the yield formula to provide for semiannual compounding using the method suggested by the commenters and originally proposed by the ICI.

(d) Amortization of Discount and Premium

For the purpose of determining the amount of net investment income earned from each security during the base period, the Proposal would require a fund that purchases a debt obligation at a premium or discount to adjust the income accrued from the obligation using the cost of the obligation at purchase ("cost method") rather than the current market value of the obligation ("market value method") as the basis for amortization.[8] The proposing release noted that the cost method may result in two funds with the same portfolio quoting different yields depending upon the price at which the securities were purchased and was generally a less accurate method of calculating yield. Nevertheless, the Proposals, following the ICI proposal, used the cost method because of the perceived complexities and costliness of using the market value method. Comment was specifically invited on which of the two methods would be more appropriate, the effect on debt trading markets of using either method, and the relative administrative burdens on funds of using either method.

Most commenters urged the Commission to adopt the market value method of amortization. These commenters agreed with the Commission's assessment that the market value method provides a more accurate yield. In addition, they asserted that this method produced a yield figure more consistent with the goal of comparability. These commenters believed that the benefits of using the market value method outweigh the cost of any additional administrative burdens. One commenter pointed out that required use of the cost method may distort fund decision-making and create market inefficiencies. To quote a higher yield, a fund might hold discount bonds (although they otherwise might be sold) to accrete the most discount, and trade away premium bonds (although it might otherwise hold them) to avoid amortizing premium. Use of the market value method would avoid injecting considerations related to boosting yield into the decision of whether to hold or sell bonds. Two commenters believed that the Commission should adopt the cost method, arguing that it would be burdensome for a large fund complex to continually recompute amortization schedules for each security and that the cost method is based upon the traditional accounting method of determining income on the basis of historical cost.

The Commission has decided to adopt a yield formula using a modified market value method of amortization. The method adopted, suggested by three commenters as the least burdensome method, requires the recomputation of amortization schedules at the beginning of each month, and is a compromise between the original cost method and an unmodified market value method that would involve adjusting amortization schedules on a daily basis.[9] The Commission is persuaded that use of the cost method would be inconsistent with the goal of comparability and may distort fund decision-making and bond trading markets. Using the method suggested by commenters appears to alleviate any burden associated with the use of an unmodified market value method.[10] Moreover, given the extensive use of computers by funds and the ready availability of the data necessary to recompute amortization schedules, the Commission believes that the burdens will be minimal and clearly outweighed by the benefits.

3. Requirement That Yield be Accompanied by Total Return

As proposed, income funds that advertise yield would have to include uniformly computed total return information covering the prescribed periods in their advertisements. A number of commenters criticized this aspect of the Proposals. Some commenters argued that income funds are marketed on the basis of yield and not total return; others argued that income fund investors are more interested in yield than total return. Several commenters asserted that investors interested in income funds may be deterred from investing in them when the income potential for the funds is the greatest, *i.e.*, when total return is low; and, in contrast, high total return (due to falling interest rates) would create unreasonable investor expectations about future returns. Still other commenters complained about the number of performance figures that would be required in income fund advertisements.

The Commission has decided to retain the requirement that funds quoting yield in advertisements also include total return information. The Commission believes that use of a yield quotation alone in an advertisement may omit material information necessary to make the advertisement not misleading. As one commenter stated, "shareholders of an income fund cannot obtain the yield of a fund without concurrently enjoying the advantages of any capital appreciation and suffering the disadvantages of any capital losses that may have been incurred * * *." Absent the requirement to disclose total return data, income funds would be permitted to advertise relatively high yield while

[8] An explanation of the two different methods is provided in Release 6660 at note 23.

[9] As adopted, Instruction 1 to the yield formula would require funds to calculate the yield to maturity (YTM) of each debt obligation held in the portfolio on the last day of each month, divide the YTM by 360, and multiply the quotient by the market price of the obligation, including accrued interest. The resulting dollar yield of the security would then be used to accrue interest on the security for each day of the subsequent month that the security is held in the portfolio. Securities purchased during the month must be amortized from historical cost until the beginning of the following month. A note has been added to Instruction 1 explaining that it does not require that yield be calculated over a one month period, rather than over 30 days. The instruction only requires that accrual schedules be readjusted at the beginning of each month.

[10] Instruction 2(b) to the yield formula gives funds the option not to amortize discount or premium on installment debt obligations (such as mortgage-backed securities). In all cases, funds must adjust net investment income by any gain or loss realized upon receipt of each paydown. Two commenters urged the Commission to require funds to amortize discount and premium on installment debt to ensure comparability. The Commission is not at this time requiring amortization of discount or premium with respect to those securities because it is unsure that amortization would materially further the goal of comparability given the uncertain maturities of these instruments. In addition, the Commission is not at this time requiring that funds that do choose to amortize installment debt do so using the market value method.

losing shareholder value without adequately disclosing this fact.[11]

The Commission is concerned that the single yield figure today used in many income fund advertisements suggests to investors a promised return such as a yield of a bank certificate of deposit, or suggests stability of principal such as that of a money market fund, notwithstanding statements in advertisements to the contrary.[12] Inclusion of total return information, which will vary for the different time periods and from fund to fund, along with the yield quotation, will effectively convey to investors that the return and the value of their investment will vary.[13]

The Commission is also concerned that investors are being misled if yield is the only measure of performance provided in an advertisement because such an advertisement suggests that high yield means better performance. While higher yielding income funds may in fact have superior performance under certain market conditions, high yields are generally more indicative of greater risk and volatility of share value. While the term "high yield bond" is a well-known term in the bond market, the term becomes obscured when applied to funds. For investors who are choosing between income funds and bonds, several commenters' argument that bond funds ought to be quoted in advertisements only on the same basis as their underlying instruments has some force. However, many, if not most, income fund investors are not in the position to purchase bonds and are comparing the "performance" of income funds with the yields advertised by money market funds and by banks for their certificates of deposits, or are comparing income funds with differing risk of principal loss. For money market funds and bank certificates of deposit, "yield" represents the total return on the instrument since principal does not change—a characteristic which generally results in lower yields on bank instruments and money market fund shares than on income fund shares. An income fund yield will usually not equal its total return. Indeed, a fund that invests in high yielding but risky securities must expect, over time, to suffer some loss of principal. Thus, such a fund will realize, over time, a total return that is lower than its yield.

In addition, the Commission is requiring the inclusion of total return information in income fund advertisements to enhance the ability of investors to compare performance claims among income funds. Two funds may advertise the same yield but have very different total return records, and the different total return records may materially affect an investor's selection between the two funds.[14]

4. Use of the Term "Yield"

The proposing release requested comment on whether funds should be permitted to use the term "yield" or whether some other term such as "current income rate" should be used. The release expressed the Commission's concern that investors may confuse "yields" advertised by funds with "yields" advertised by issuers of bonds and certificates of deposit. Four commenters agreed that use of a term other than "yield" would help prevent investor confusion; others saw no such confusion and argued that the Commission should not attempt to change a term in common use. The Commission has decided not to mandate the use of a different term because it is unsure that prohibiting the term in rule 482 advertisements would eliminate investor confusion caused by the term's use in other communications. The Commission anticipates that the total return disclosures and the new narrative risk disclosure will contribute to improved investor understanding of the nature of fund yields.

5. Distribution Rates

The ICI proposal called for the standardization of a "distribution rate" that would demonstrate the amount of distributions per share made by a fund over a twelve-month period divided by the share price. This distribution rate would differ from the fund's yield (which the ICI proposal would require to accompany the distribution rate) because it would include capital items such as option premiums and other short-term capital gains. The Commission Proposals did not permit use of a distribution rate in rule 482 advertisements, but would have permitted such a rate in sales literature if accompanied by the standardized yield and total return data.

A number of commenters argued vigorously that a distribution rate should be allowed in a rule 482 advertisement. Some asserted that investors are interested in the amount of distributions; others claimed that a distribution rate is a "fact" and that the Proposals would have prohibited nonfraudulent information; and still others argued that a distribution rate, because it relates to actual amounts received by investors, is a more meaningful and less confusing figure to understand than a yield. Several commenters mentioned the importance of a distribution rate to option income funds, which do not produce much yield (because option income is not considered investment income under generally accepted accounting principles), but still market themselves based on their ability to produce current income and not total return.

One fund commenter urged the Commission, in equally vigorous terms, to prohibit use of a distribution rate in all cases—in rule 482 advertisements, sales literature, and even in oral communications—because a distribution rate is an "inherently flawed concept, which use can result in investors being misled as to the income to be derived from their fund investment." This commenter discussed four ways by which an income fund may boost a distribution rate relative to a current yield: (1) Utilizing the accounting technique of "income equalization"; [15] (2) including the gains from the sale of options; (3) purchasing debt obligations at a premium and failing to amortize the premium against income; and (4) selling securities to realize short-term gains.

[11] Such a scenario is, in fact, likely to occur because yield and total return are generally inversely related. If interest rates rise, the value of fixed income obligations held by an income fund will decrease as will net asset value which will cause fund yields to rise. The yield to an investor who invested before an increase in interest rates would remain relatively constant, although the value of his investment would decrease. Nevertheless, higher yield in an advertisement implies improved performance to both prospective and current investors when, in fact, the fund experienced poorer performance.

[12] The Commission recently received several complaints that seem to confirm this lack of understanding from income fund investors surprised at a sharp decrease in the value of their investment after an increase in prevailing interest rates.

[13] The proposing release asked comment on the concept of adjusting fund return by the amount of risk assumed to obtain the return to assist investors in comparing performance. The comments received provide an inadequate basis to move forward with such a concept, but the Commission will continue to study it.

[14] The share value of income funds investing in debt obligations is affected by changes in prevailing interest rates. While changes in interest rates affect the share value of all funds holding fixed income obligations, they do not affect the share value of all income funds equally. The impact of an interest rate change will depend upon such things as the duration of the fund's portfolio, its average maturity, quality of investments, and hedging activities. ("Duration" is the weighted average term-to-maturity of a portfolio where cash flows are in terms of their present value.) The uniformly computed total return required to accompany yield is discussed *infra* in section II.9. of this release.

[15] "Income equalization" is an accounting method used to prevent a dilution of the continuing shareholders' per share equity in undistributed net investment income caused by the continuous sale and redemption of shares.

The commenter pointed out that, in each case, potential investors most likely will not understand that the use of any one of these techniques to produce a distribution rate may negatively affect the value of their investment. Two other fund commenters similarly argued that a distribution rate permits the manipulation of advertised returns to produce a rate higher than the actual yield. They argued that, because investors naturally tend to focus on the larger number, the use of a distribution rate—even accompanied by a standardized yield figure—would defeat the purpose of the uniformly calculated yield. Five commenters implied that considerable additional disclosure in a rule 482 advertisement could prevent a distribution rate from being misleading.[16]

The Commission has decided to prohibit use of a distribution rate in rule 482 advertisements. Funds may quote a distribution rate in their prospectuses, and sales literature (as long as such a rate is accompanied by the uniformly computed yield and total return information), but not in rule 482 advertisements. The Commission believes that prospectuses and sales literature provide an opportunity for a full discussion of distribution rates, including their shortcomings described below.[17]

A distribution rate, although promoted as an indicator of fund performance, is actually only an aggregation of certain components of performance—dividends, realized short-term capital gains and, in some cases, realized long-term capital gains. A distribution rate does not reflect unrealized losses and thus its use in an advertisement can be misleading unless full disclosure is made regarding losses.[18] In addition, a distribution rate is highly susceptible to "management" inasmuch as it can be controlled by entering into transactions such as those referred to above. The use of this rate and the opportunities it affords to "manage" performance places fund advisers, who are usually compensated based on the size of a fund, in a potentially serious conflict of interest.[19] As with many omissions and conflicts of interest, effective disclosure may cure these problems, but the Commission does not believe that a rule 482 advertisement is the appropriate vehicle for the extensive disclosure necessary to permit an adequate comprehension of a distribution rate. Moreover, the use of a distribution rate would undo the considerable efforts of many in crafting a yield formula that will disclose the income production of a fund, because it would permit the disregard of accounting rules designed to measure net investment income.[20]

6. Tax Equivalent Yield

A tax equivalent yield demonstrates the taxable yield necessary to produce an after-tax yield equivalent to that of a fund which invests in exempt obligations. The Proposals would permit a fund investing in tax-exempt debt obligations to advertise a tax equivalent yield if the advertisement contains uniformly computed current yield and total return quotations. To assure that the tax equivalent yield is derived from a tax-exempt yield, the Proposals would have limited its use to a fund having an average of 95 percent of its net assets invested in tax-exempt debt obligations during the measuring period. In response to commenters' suggestions, the Commission is eliminating the 95 percent test and modifying the formula for calculating the tax equivalent yield so that the tax equivalent yield is calculated by applying the stated income tax rate to only the net investment income exempt from taxation.[21]

7. Separate Accounts

Under the Proposals, the yield formula would also be available for separate accounts issuing variable annuity contracts. These separate accounts are organized as management companies ("management accounts") or unit investment trusts that are funded by one or more management companies ("trust accounts"). The yield provisions apply to management accounts in an almost identical fashion as mutual funds. However, the proposed yield provisions were modified for trust accounts that hold shares of management companies rather than debt obligations.

In a trust account arrangement, dividends are earned on the portfolios of underlying management companies and are passed up through the trust account to variable annuity contractowners in the form of enhanced value of their variable annuity contracts. The yield calculation is made at the trust account level to reflect charges deducted from trust account assets (as well as those deducted from underlying management fund assets). To prevent the management company (which is often affiliated with the trust account) from timing the income payments to the trust account to increase advertised yield, the Proposals would require the portfolio company to declare dividends daily. Three commenters acknowledged the need to prevent the manipulation of dividend income into yield, but believed that the concern could be addressed in a less burdensome manner. Instead of requiring daily distributions, these commenters suggested that the trust account be required to accrue dividends as if they were declared daily. The Commission has modified the yield formula in Form N-4, the trust account registration form, to reflect this suggestion.[22]

[16] These commenters would require disclosure explaining (i) the components of the distribution rate that differ from yield, (ii) that these components are non-recurring; and (iii) the potential impact on overall performance, other than increasing the quoted distribution rate, that option writing might have.

[17] In addition, the prospectus or sales literature should disclose the nature of a distribution rate and the difference between it and a yield to prevent investors from being misled.

[18] Investor confusion over the distinction between income and capital gains distributions has twice led Congress to place restrictions on the distribution practices of funds: Section 19(a) of the 1940 Act [15 U.S.C. 80a-19(a)] (enacted as section 19 in the original act) requires funds to specifically disclose the sources from which dividends are paid, and section 19(b) [15 U.S.C. 80a-19(b)] (enacted in 1970) prohibits funds from distributing long-term capital gains more than once each year except by Commission rules. *See* "Public Policy Implications of Investment Company Growth," Report of the Securities and Exchange Commission, H.R. Rep. No. 2337, 89th Cong., 2d Sess. 190-95 (1966); and S. Rep. No. 184, 91st Cong., 1st Sess. 29 (1969). This same confusion is caused by the practice of advertising distribution rates.

[19] Certain portfolio transactions may be entered into to boost a distribution rate, thereby increasing the sale of fund shares and the adviser's advisory fee. However, these transactions may have a negative impact on the overall performance of the fund. *See* Release 6660 at note 33; section 1(b)(2) of the 1940 Act [15 U.S.C. 80a-1(b)(2)] (public interest is adversely affected when funds operate in interest of officers, directors, or adviser rather than shareholders); and *Managed Funds, Inc.*, 39 SEC 313 (1959) (stop order issued where, among other things, prospectus failed to disclose that fund was primarily managed to create capital gains distributions).

[20] *See* the discussion *supra* regarding the four ways one commenter suggested that an income fund can boost a distribution rate relative to a current yield.

[21] The requirement that a fund have the production of tax-exempt income as its primary investment objective has also been eliminated as unnecessary based on the assumption that only funds with a substantial amount of tax-exempt income would advertise a tax equivalent yield. If a fund promotes the federal tax-exempt status of the income it distributes in an advertisement, the advertisement should also disclose that the income may be subject to state income taxation. If the income is exempt from both federal and state (or local) income taxation, the advertisement should clearly indicate the residents of the state or locality to whom the exemption applies and any other information necessary to present a clear understanding of a tax equivalent yield. *See* Release 6660, note 32.

[22] In addition, one commenter noted that, under the proposal, all dividends would be reflected in trust account yield, including dividends derived

Continued

Consistent with the calculation of net investment income by the yield and total return formulas for mutual funds, the separate account formulas require the amount of investment income be reduced by all recurring expenses. In the case of variable annuity separate accounts, these expenses include charges for mortality and expense guarantees and insurance-related administrative charges. One commenter argued that insurance-related charges should be excluded from the calculation of separate account performance so that an investor may compare solely the investment element of a variable annuity. Another commenter argued that these expenses should not reduce yield but did not object to their reflection in total return.

The Commission has decided to retain the requirement that all recurring expenses (including insurance-related charges) be reflected in separate account yield and total return. Any attempt to distinguish those expenses that are properly categorized as "investment-related" from those that are not would require the Commission to continually engage in line-drawing exercises as different types of services and charges develop. Moreover, investors are likely to care more about the magnitude of the charges, as opposed to their classification as investment- or insurance-related.

The proposing release noted that because a trust account arrangement involves the computation of performance on two levels (the trust account level and the underlying fund level), an account is technically eligible to advertise performance at either level.[23] The performance of each level would not be identical because performance at the underlying fund level would not reflect charges deducted at the trust account level. The proposing release stated the Commission's view that advertisement of the underlying fund performance would, in most circumstances, be misleading because prospective contractowners could not obtain the benefit of underlying fund performance without the charges incurred at the trust level. However, commenters suggested, and the Commission agrees, that it would not be misleading to disclose performance of the underlying fund if performance of the trust account is also disclosed.

8. Equity Funds

Although the ICI proposal would only have affected income fund advertising, the Commission Proposals extended standardization to non-income funds ("equity funds") to permit investors to compare the performance claims of these funds. The Proposals would have limited equity funds to uniformly calculated total return quotations covering each of the five most recently completed calendar years and a current (interim) stub period.

Under the Proposals, and the rules adopted today, no equity fund (or any other fund) will be required to advertise performance, but those that do will be required to include uniformly computed, comparable quotations of total return. Virtually all non-income funds that advertise performance already use some kind of a total return.[24] Of equal importance, total return is the performance information most relevant to an equity fund, and this was acknowledged by a number of commenters. The rules adopted today, which are explained in more detail below, merely set "ground rules" by requiring equity funds advertising performance to include certain uniformly-computed total return figures calculated over similar periods in their ads. Unlike the Proposals, the rules adopted today will not restrict equity funds advertising performance to only the standardized total return figures. Instead, the rules permit equity funds to advertise any other total return, aggregate or average, over any period they choose, in addition to advertising the standardized yield figure. While the rules adopted today reflect the Commission's belief, articulated earlier in the proposing release, that total return quotations are necessary to ensure that fund performance ads are not misleading and to permit investors to compare fund performance, the Commission nonetheless does not wish to restrict the use of other performance data that is not misleading.

The Commission's exercise of its rulemaking authority under section 10(b) of the 1933 Act [15 U.S.C. 77(10)(b)] to facilitate investor comparison of performance claims, although questioned by several commenters, has precedent. The Commission adopted a uniform method for computing money market fund yield in 1980 based on the explicitly articulated goal of comparability.[25] This approach has enhanced investor information and promoted competition among money market funds.

The commenters did not dispute the appropriateness of total return as a measure of equity fund performance or that this measure is the one most frequently used by equity funds that advertise performance. Instead, a number of commenters opposed any rules standardizing the computation of equity fund performance, although some generally approved of such standardization. Some of these commenters raised the previously-discussed issue of comparability and argued that the Commission should not require comparability of performance information in rule 482 advertisements (although many supported a yield formula to provide income fund comparability). They claimed that an omitting prospectus advertisement (a rule 482 advertisement) is merely an "invitation to solicit a prospectus," and that efforts to assure comparability will lead investors to erroneously believe that the advertisement serves the same purpose as the statutory prospectus.

These commenters' assessments cannot be reconciled with many rule 482 advertisements currently published, but rather with "tombstone" advertisements under rule 134 [17 CFR 230.134] that generally serve as mere announcements of offerings. Many rule 482 advertisements, in addition to highlighting fund performance, include market information, comparative market indices, discussions of tax laws, and other information designed to attract and inform prospective investors. The extent of this information reveals that funds themselves do not view rule 482 advertisements as mere "solicitations of prospectuses," but rather as opportunities to provide substantial information to prospective investors.

That rule 482 advertisements are used to provide substantial information to prospective investors is understandable because of the large number of funds today registered with the Commission. It is unrealistic to expect that an investor would request the prospectuses of the hundreds of funds that may be available in an attempt to compare them. Rule 482 advertisements have developed to serve as an important means of informing

---

from short- and long-term capital gains. This has been remedied by modifying the trust account yield formula so that it takes into income only net investment income earned during the base period by the portfolio company. If the portfolio company is a shared funding vehicle for more than one separate account, the formula permits only the net investment income attributable to shares owned by the separate account to be taken into account. The formula does not prescribe a method of attribution; whatever method is used should fairly reflect economic realities and be consistently used.

[23] Release 6660 at note 30.

[24] The Commission staff informally surveyed rule 482 advertisements published in 1986 in a number of newspapers and financial magazines and found that 98% of all equity fund ads (242 of 247 ads) containing performance data advertised some sort of total return.

[25] Investment Company Act Rel. No. 11379 (Sept. 30, 1980) [45 FR 67079 (Oct. 9, 1980)].

investors about fund investment opportunities and to permit investors to narrow their search. The Commission has concluded that rule 482 advertisements facilitate a preliminary comparison among funds and play an important step in the selection process.

The prominence of performance information in many fund advertisements and the apparent interest of investors in performance information indicates that it is an important factor affecting an investor's investment decision. When funds include performance information in a rule 482 advertisement they invite comparison with other funds. While most equity funds advertise performance by means of fund total return, total return is often computed differently and/or presented over different time periods. This lack of comparability may confuse and mislead investors. The Commission has therefore determined to prescribe a standardized, non-exclusive means to portray total return in rule 482 advertisements.

9. Method of Standardizing the Presentation and Calculation of Total Return

The primary questions raised by the Proposals and discussed by commenters were (1) whether total return should be required to be included in income fund advertisements to accompany quotations of yield, and (2) whether uniformly computed total return figures should be required in equity fund advertisements containing performance information. In addition, the Commission requested comment on how total return should be presented in fund advertisements if it were to adopt uniform requirements.

Under the Proposals, funds advertising performance would be limited (in addition to an income fund yield) to total return figures covering each of the last five calendar years and any subsequent interim period.[26] The five year period was a compromise between the desirability of providing investors with information on fund performance during different market conditions and the practicalities of limited space available in many rule 482 advertisements.[27] Several commenters criticized this aspect of the Proposals because it would: (1) Require too many numbers in a rule 482 advertisement, (2) not capture a meaningful portion of a business cycle, and (3) preclude advertisement of useful and non-misleading performance information such as average and aggregate total returns. In addition, some commenters argued that the year-by-year format resulted in an inconsistent and potentially confusing treatment of sales load.[28]

The Commission has modified the method of presenting and calculating total return in response to these comments. Under rule 482, as amended, a fund advertising performance must include in the advertisement the fund's one year, five year, and ten year average annual compounded total return calculated in a uniform manner prescribed by the Commission.[29] A fund may also, as discussed above, quote the fund's yield or tax-equivalent yield, and may include any other performance information as long as that information contains "all elements of return." This method of presenting total return, while achieving the goal of comparability articulated in the proposing release, will (1) require only three total return figures in any fund advertisement containing performance information (rather than the six figures that would have been required by the Proposal), (2) permit evaluation of a fund's performance over different periods of time, and (3) permit funds to include (standardized and nonstandardized) average and aggregate total return information covering any additional period selected if such additional performance data is neither calculated nor presented in a misleading manner. Because each of the three total return figures will cover different periods of time, they should permit some evaluation of the level of volatility characteristic of the return on the fund's portfolio.[30]

(a) The Required Total Return Data

As previously stated, all rule 482 advertisements containing performance information [31] must also contain the fund's last one, five, and ten year average total returns. The one, five, and ten year periods are "rolling" periods that end on the last day of the calendar quarter preceding the date on which the advertisement is submitted for publication.[32]

If the fund's registration statement under the 1933 Act has been effective for less than the five or ten year periods,[33]

[26] Although this release refers to total return "figures," amended rule 482 does not limit depiction of historical performance to numerical figures. The use of graphs, charts, tables, etc. is also encompassed by the rule.

[27] Release 6660 at note 36.

[28] The Proposals would have required that all sales loads deducted from payments be reflected in the earliest of the five years, that any (contingent) deferred load be reflected in the most recent of the five years, and would have assumed a single $1,000 investment at the beginning of the earliest year and a complete redemption at the end of the fifth year. Commenters noted that most investors would not be investing or redeeming their shares during those two years, and thus investors would be required to factor out the sales load to determine performance. As described *infra*, the rules adopted today assume three different holding periods which replicate the actual investment experience of a short-term, intermediate-term, and long-term investor in the fund, including the sales load each would have paid. The Commission believes that this approach reduces any artificiality in the Proposals' assumption of one holding period divided into five measuring periods only one of which reflects sales load.

[29] The one-year period has been retained from the Proposals; the five-year period is adapted from the five calendar year periods of the Proposals; and the ten-year period is drawn from the condensed financial information requirements ("per share table") of fund prospectuses. *See* Instruction 1 to Item 3(a) of Form N-1A. The per share table sets out financial information for the last ten fiscal years of the fund. Like the ten-year average total return figure, it is designed to disclose the results of operations of the fund over one or more business cycles. *See* Release 6660 at note 36 (Commission considered proposing total return covering ten individual years consistent with per share table disclosure).

[30] The proposing release explained that average total return was not selected as the uniformly computed measure of total return because such a figure could be misleading if recent performance were significantly different than the average. *See* Release 6660 at note 37. That explanation addressed the alternative of a single average return figure in lieu of the proposed five figures covering five calendar years. In adopting rule and form amendments requiring inclusion of the most recent one-year total return as well as five and ten year average returns, the Commission has resolved that concern.

[31] The rule only applies to performance information about the fund and would not limit the inclusion of information about market indices; however, the amendments to rule 482 do preclude performance information about any related entity to the fund such as its adviser, *i.e.*, other funds or private accounts controlled by the adviser, where the use of such performance is intended as a substitute for the performance of the fund. In addition, the rule would not prevent the inclusion of performance rankings compiled by independent organizations in rule 482 advertisements because such rankings are not "performance" within the meaning of rule 482. Care should be taken, however, to assure that performance rankings are not used in a misleading fashion. Examples would be the use of a rating for the most recent 2 year period, when the rating for the most recent 1 year period is materially different and the difference is not disclosed, the use of a rating by one rating service where the fund knows or should know that a rating by another service is materially different and the latter rating is not disclosed, or if the rating is based on information that the publisher of the rule 482 advertisement knows or should know to be incorrect.

[32] As proposed, the five one-year periods were based on calendar years, and an annualized stub period updating the information would have been required. The "rolling" periods obviate the need for the stub period.

[33] If the registration statement has been in effect for less than 1 year, the total return formula provides for a method of annualization. The formula does not provide insulation from liability if it would be misleading to advertise annualized performance for a very short period of time without adequately disclosing the limitations of such performance.

rule 482 requires that the period of effectiveness be substituted for the five and/or ten year period.[34] Under the Proposals, performance would have been presented for one year periods covering each of the last five calendar years during which the fund was "in business." "In business" referred to the period during which the fund met the forty percent asset test of section 3(a)(3) of the 1940 Act [15 U.S.C. 80a-3(a)(3)],[35] and therefore the performance data could have extended back before the fund had an effective registration statement under the 1933 Act. Two commenters argued that the rule should follow Item 3 of Form N-1A, which limits financial information in a prospectus to periods subsequent to effectiveness of the fund's registration statement under the 1933 Act, because funds are likely to be managed differently before they are offered to the public. The Commission has modified the rule to conform to this Form N-1A assumption.

(b) Non-standardized Performance

In addition to the uniformly computed performance information, amended rule 482 permits the inclusion of any other performance data as long as that data contains "all elements of return." [36] This limitation, designed to preclude use of distribution rates and non-standardized yields, will permit a fund to demonstrate the fund's total return over different periods of time by means of aggregate, average, year-by-year, or other types of total return figures.

10. Subsidization

The proposing release stated that where an adviser's subsidization of expenses affects a fund's performance, the fund must disclose both the fact of subsidization and the return the fund would have obtained had the performance not benefitted from subsidization.[37] Commenters argued that this statement should be withdrawn because subsidization benefits shareholders, and that it is usually done to help new funds with high expenses to compete with others. As commenters asserted, subsidization is done to boost performance vis-a-vis unsubsidized fund performance. For the very reasons these commenters stated, the Commission continues to believe that failure to disclose subsidization, where the subsidization affects performance in a material manner, would cause the advertisement to omit to state a material fact. Moreover, it would impair the ability of investors to compare fund performance claims.

III. Sales Literature

The Commission is adopting a new rule under the 1940 Act that would extend the standardization requirements to fund sales literature containing performance data. Rule 34b-1 deems any sales literature containing performance data to be misleading unless it also includes the appropriate uniformly computed performance data and the legend disclosure required in rule 482 advertisements.[38] The rule has been modified to reflect the new approach to the required uniform performance disclosures of rule 482 and has been narrowed somewhat to exempt shareholder reports containing performance data required by section 30(d) of the 1940 Act [15 U.S.C. 80a-29(d)] if the performance data that would otherwise trigger the uniform performance disclosure requirement relates only to the period of time covered by the shareholder report.[39] One commenter urged that the rule should apply to shareholder reports; others argued that they should not be covered. The rule, as adopted, is intended to eliminate from its coverage shareholder reports that might otherwise constitute sales literature under the rule but merely serve to inform shareholders of recent developments relating to their investment.[40]

IV. Presentation of Performance Data in the Prospectus

The Commission is amending Forms N-1A, N-3, and N-4, as proposed, to reallocate the information about performance information in the prospectus and Statement of Additional Information and require an exhibit in Part C of the registration statement setting out the fund's calculation of its performance data.[41] Some commenters urged that, instead of establishing an exhibit requirement, the Commission require that worksheets used to calculate performance be required to be kept by the fund for review during Commission inspections. They argued that such a requirement is more appropriately part of the Commission inspection program than the registration process. Because of the need to assure that new funds properly follow the formula, the Commission has decided to adopt the amendment to Part C as proposed.[42]

Some funds may include the uniformly computed performance data in their prospectus (and not just the description of the data used in an advertisement). In such cases, total return is required to be current to the end of the fund's last fiscal year.[43] Therefore, although the uniformly computed total return quotations in rule 482 advertisements and other forms of sales material are required to be updated quarterly, total return in prospectuses need only be updated annually.

V. Additional Amendments to Rule 482

The Commission is also adopting several amendments to rule 482 to

[34] For example, if a fund's registration statement has been effective for 9 years and 6 months from the end of the last quarter before the rule 482 advertisement was submitted for publication, the advertisement must contain average total return figures for 1 year, 5 year, and 114 month periods. If a fund's registration statement has been effective for 5 years and 6 months from the end of the last quarter before the rule 482 advertisement was submitted for publication, the advertisement must contain average total return figures for 1 year, 5 year, and 66 month periods. However, if the fund's registration statement had become effective 4 years from the end of the last quarter before the rule 482 advertisement was submitted for publication, the advertisement need only contain average total return figures for 1 and 4 years. The rule does not prohibit updating of total return after submission for publication as long as the updating is by calendar quarters.

[35] Release 6660 at note 34.

[36] Under rule 156 [15 CFR 230.156] and the antifraud provisions of the federal securities laws the inclusion of this performance data may not be materially misleading.

[37] Release 6660 at note 55.

[38] Rule 34b-1 requires sales literature containing any kind of performance to include the one, five, and ten year average total return information. It also requires sales literature containing any kind of yield or similar indicator of the income production of the fund (*e.g.*, a distribution rate) to state the fund's yield calculated in the prescribed uniform manner. Finally, sales literature containing any kind of a tax equivalent yield or similar figure must also state the fund's tax equivalent yield calculated in the prescribed manner.

[39] The financial statements required to be included in shareholder reports by rule 30d-1(a) [17 CFR 270.30d-1(a)] would not trigger the uniform performance disclosure.

[40] The definition of sales literature under section 24(b) is very broad and would include any supplemental sales literature accompanied or preceded by a statutory prospectus, and pamphlets or other written sales material sent to dealers and sales personnel with the understanding or intent that the dealers or sales personnel will quote the performance in attempting to sell fund shares. See Investment Company Act Rel. No. 150 (June 20, 1941) [11 FR 10993 (Sept. 27, 1946)].

[41] In addition, the Commission is adopting an amendment to the instructions to Forms N-1A, N-3, and N-4, *see supra*, note 43, to clarify that a fund that amends an omitting prospectus advertisement to update performance data need not also amend its statutory prospectus if the performance data is calculated in a manner consistent with its description in the prospectus.

[42] The exhibit would only be required to be included as part of the registration statement at the time of registration and not as part of any post-effective amendment unless the fund changed the method of calculating its (non-standardized) performance, or wished to begin using an additional method of presenting performance.

[43] *See* Instruction 7 to Item 22(b) of Form N-1A.

ensure that fund advertisements are not misleading.[44]

1. Required Disclosure

The Proposals would amend rule 482 to require that all advertisements containing performance data include a legend disclosing that the performance data quoted represents past performance and that the investment return and principal value of an investment will fluctuate so that an investor's shares, when redeemed, may be worth more or less than their original cost.[45] In addition, if a sales load or similar nonrecurring fee, or a fee pursuant to a plan adopted under Rule 12b–1 under the 1940 Act [17 CFR 270.12b–1] is deducted, the Proposals would require that the advertisement disclose the maximum amount of the fee and whether the performance data reflects the deduction. Some commenters argued that the existence of a fee ought to be required to be disclosed only if not reflected in the performance data advertised and suggested that investors may be misled into believing that the performance data did not reflect the charge disclosed. The Commission has decided that recurring fees, such as typical 12b–1 fees, since they are fully reflected in performance data, need not be disclosed in an advertisement. Therefore, amended rule 482 requires disclosure only of sales loads and similar nonrecurring expenses.

The Commission did not propose any specific language for the additional risk and fee disclosure, although the proposing release asked comment on whether the rule should require the use of specific language. Most commenters opposed the use of mandatory language, arguing that investors would be less likely to read a mandatory uniform legend than one that varies. The Commission has decided not to adopt a specific format for this disclosure.

The proposing release expressed the Commission's concern with fund advertisements promoting the investment in a portfolio of "U.S. Government guaranteed" securities that imply that an investor cannot experience a loss and that the yield advertised is guaranteed.[46] The Commission is restating these concerns and emphasizes that it considers such advertisements to be misleading unless such an implication is effectively rebutted by disclosure that (1) the value of "guaranteed" securities fluctuates due to changing interest rates (or other market conditions), and (2) the investor may experience a loss or may, due to prepayment of obligations held by the fund, receive back part of his investment before redemption.[47]

2. Type Size

The Proposals would add a note to rule 482 reminding funds that printed rule 482 advertisements are required by rule 420 under the 1933 Act to be in roman type at least as large as 10-point modern type.[48] Commenters acknowledged that most fund advertisements currently violate this rule but argued that increasing the size of print to 10-point type would be excessively costly. A number of commenters urged the Commission to permit type as small as 8-point roman type, the size of type generally used in most newspapers. The Commission agrees that the purposes of rule 420 may still be met if the minimum type size in rule 482 advertisements is reduced to 8-point type and is adopting such an amendment. The Commission believes that it is important that rule 482 advertisements, and in particular the footnotes of these advertisements that serve to qualify or complete information in the body of the advertisement, are legible to all investors.

3. Prominence of Performance Quotations

The Proposals would amend rule 482 to require all performance data be given equal prominence in fund advertisements. This requirement was intended to prevent a fund from prominently presenting favorable performance data while "burying" less favorable performance data. Several commenters opposed this requirement because of the amount of space it would require in a printed advertisement. The Commission has addressed this concern by reducing the number of performance figures required to be in an advertisement. In addition, the Commission is modifying the proposed rule 482 amendments to require only the required total return data to be given equal prominence.[49] Yield and non-standardized total return figures may be given lesser (but not greater) prominence.[50] This should provide the flexibility some commenters sought.

4. Stale Performance Data

The Proposals would also amend rule 482 to require that performance data in advertisements be as of the most recent practicable date considering the type of fund and the medium in which the data appears. As proposed, however, no performance data could be more than thirty days old. A number of commenters objected to the thirty-day limit as being impractical and claimed that it would prevent performance advertising in a number of periodicals having lead times that exceed thirty days. Several of these commenters suggested longer periods, or suggested that advertisements containing performance information more than thirty days old be required to include a toll-free phone number by which prospective investors could obtain current information. In addition, some commenters believed that any currentness requirement should not apply to total return information because such information is not time sensitive.

The Commission has decided not to adopt a specific requirement for the currentness of performance data in advertisements. Under paragraph (f) of amended rule 482, performance data contained in an advertisement need only be as of the "most recent practicable date." As discussed above, the uniformly computed total return data required to be included in all fund advertisements must be current to the most recent calendar quarter prior to submission for publication. Therefore, paragraph (f) deems advertisements containing total return information (including any non-standardized optional total return data) to have met this requirement if the total return is current to the most recent calendar

---

[44] One commenter suggested that rule 482 be expanded to include unregistered separate accounts. Such an expansion is not being adopted because, among other reasons, it was not proposed for public comment.

[45] Money market funds, which generally maintain a stable net asset value, are excluded from that portion of the legend requirement pertaining to the fluctuation of the principal value of an investment. See Release 6660 at note 52.

[46] Release 6660 at note 51. This concern is shared by the Government National Mortgage Association (GNMA), the guarantor of many of these securities, which submitted a comment letter urging the Commission to require similar disclosure by funds holding GNMA certificates.

[47] In addition, these advertisements must contain the legend disclosure required by paragraph (a)(3) and, if they contain performance data, paragraph (a)(6) of rule 482.

[48] Rule 482 advertisements on television or radio are not, of course, required to comply with rule 420. The required legend information or, if applicable, the required total return information must be presented in a sufficiently clear manner that it may be comprehended by an average person. Thus, for example, the legend required by paragraph (a)(3) of rule 482, if merely flashed on the television screen, would not satisfy the requirements of rule 482: the legend must be read by a voice overlay or remain on the screen for a sufficient period of time to be read.

[49] See paragraph (e)(3)(iii) of rule 482, as amended.

[50] See paragraphs (e)(1)(iii) and (e)(4)(iii) of rule 482, as amended. In addition, tax equivalent yield may be given no greater prominence than current yield. *See* paragraph (e)(2)(iii).

quarter prior to submission of the advertisement for publication.

5. Miscellaneous Amendments to Rule 482

As proposed, the Commission is amending rule 482 to add a note stating its view that, for purposes of the antifraud provisions of the federal securities laws, a fund advertisement stands alone and disclosure in a section 10(a) prospectus will not cure a false or misleading advertisement.[51] Finally, the Commission is adopting, as proposed, a new paragraph (a)(5) of rule 482 prohibiting a rule 482 advertisement from including a purchase application.

VI. Filing Sales Materials and Prospectuses

The Commission is adopting new rule 24b-3 under section 24(b) of the 1940 Act [52] and amendments to rules 424 and 497 under the 1933 Act,[53] as proposed, to relieve investment companies of the obligation to file advertisements and other sales material with the Commission if that material is filed with the NASD. Persons and firms subject to section 24(b) of the 1940 Act that are not NASD members, or NASD members who are not required and do not file sales material with the NASD, would still be required to file sales material with the Commission.[54] In addition to marking the advertisements to indicate the paragraph of rule 497 under which they are filed, rule 482 advertisements must be marked with the caption "Rule 482 ad" to assist Commission staff in selecting material for review.[55]

As proposed, the Commission is amending rule 424 to make rule 497 the exclusive rule under which investment companies must file prospectuses. Since the publication of the proposing release, the Commission has amended rule 424—but not rule 497—to eliminate filing of a prospectus where the prospectus contains no substantive differences from a previously filed prospectus.[56] The Commission did not extend the filing relief to investment companies filing under rule 497 because of the need for the Commission to maintain a usable file of current investment company prospectuses to fulfill its regulatory functions, *e.g.*, planning and conducting inspections of investment companies and their advisers, responding to investor complaints and public inquiries, and conducting various internal studies. Most investment companies, unlike most other registrants, maintain a continuously effective registration statement under the 1933 Act for their securities, and the staff requires ready access to their current prospectuses on an ongoing basis. Although registration statements and amendments contain prospectuses, a prospectus file made of those documents would be far too bulky to provide efficient, or even reasonable, access to prospectuses as needed by the staff to carry out its regulatory functions described above. On the other hand, there is no need to require investment companies filing electronically to file a prospectus where it contains no substantive differences from a previously filed prospectus because, since it is filed and stored electronically, a prospectus will be as easily accessible to the staff whether it is filed only as part of a registration statement or amendment or as a separate filing under rule 497. Therefore, the Commission is adopting an amendment to rule 499 under the 1933 Act, the temporary EDGAR rule, providing investment companies filing electronically with the same prospectus filing relief as provided for in rule 424.[57]

VII. Regulatory Flexibility Analysis

A summary of the Initial Regulatory Flexibility Analysis regarding the proposed rules, rule amendments and form amendments was published in the proposing release. No comments were received on that analysis. The Commission has prepared a Final Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603, a copy of which may be obtained by contacting Robert E. Plaze, Mail Stop 5-2, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

VIII. Text of New Rules, Rule Amendments and Form Amendments

List of Subjects

17 CFR Part 230

Reporting and recordkeeping requirements, Securities.

17 CFR Parts 270 and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Rule, Rule Amendments and Form Amendments

Chapter II, Title 17 of the Code of Federal Regulations is amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

The authority citation for Regulation C of Part 230 continues to read as follows:

Authority: Sections 230.400 to 230.499 issued under secs. 6, 8, 10, 19, 48 Stat. 78, 79, 81, as amended, 85, as amended; 15 U.S.C. 77f, 77h, 77j, 77s, unless otherwise noted.

2. By revising § 230.420 to read as follows:

§ 230.420 Legibility of prospectus.

The body of all printed prospectuses and all notes to financial statements and other tabular data included therein shall be in roman type at least as large and as legible as 10-point modern type. However, (a) to the extent necessary for convenient presentation, financial statements and other tabular data, including tabular data in notes, and (b) prospectuses deemed to be omitting prospectuses under rule 482 [17 CFR 230.482] may be in roman type at least as large and as legible as 8-point modern type. All such type shall be leaded at least 2 points.

3. By revising paragraph (a) and adding a paragraph (f) to § 230.424 to read as follows:

§ 230.424 Filing of prospectuses—number of copies.

(a) Except as provided in paragraph (f) of this section, five copies of every

---

[51] It has come to the Commission's attention that some persons have asserted that compliance with the terms of rule 482 satisfies all of the obligations of a fund with respect to a mutual fund advertisement. Funds, their underwriters, and dealers must also comply with the antifraud provisions of the federal securities laws and with the rules or regulations of any applicable state or self-regulatory organization.

[52] Section 24(b) [15 U.S.C. 80a-24(b)] requires the filing with the Commission within ten days of "any advertisement, pamphlet, circular, form letter or other sales literature" used by all types of investment companies except closed-end companies. Rule 24b-3 deems this material filed with the Commission upon filing with the NASD.

[53] Rules 424 and 497 require the filing of prospectuses with the Commission. Paragraphs (c) and (d) of rule 424 and (d), (e), and (f) of rule 497, in effect, require omitting prospectus advertisements to be filed with the Commission as are other prospectuses. The rule amendments adopted today relieve registered investment companies (and business development companies) from the filing requirements of these rules by making rule 497 the exclusive rule requiring filing of investment company prospectuses (*see* new paragraph (f) of rule 424) and by deeming rule 482 advertisements filed with the Commission upon filing with the NASD. (*See* new paragraph (i) of rule 497.)

[54] Section 35(c)(1) of the NASD Rules of Fair Practice only obligates NASD members who are investment company underwriters to file sales material. To the extent that the NASD will permit voluntary filing by members not required to file sales material, the rule amendments would not require filing with the Commission.

[55] *See* amended paragraph (g) of rule 497.

[56] Securities Act Rel. No. 33-6714 (May 27, 1987) [52 FR 21252 (June 5, 1987)].

[57] The Commission is also amending rule 499 to accommodate electronic filing of prospectuses under rule 497.

form of prospectus sent or given to any person prior to the effective date of the registration statement which varies from the form or forms of prospectus included in the registration statement as filed pursuant to § 230.402(a) of this chapter shall be filed as a part of the registration statement not later than the date such form of prospectus is first sent or given to any person: *Provided, however,* That only a form of prospectus that contains substantive changes from or additions to a prospectus previously filed with the Commission as part of a registration statement need be filed pursuant to this paragraph (a).

* * * * *

(f) This rule shall not apply with respect to prospectuses of an investment company registered under the Investment Company Act of 1940 or a business development company.

§ 230.481 [Amended]

4. By amending § 230.482 by revising paragraphs (a), introductory text, (a)(1), the Note after (c), (d), and adding the note after (a)(3), paragraphs (a)(5), (a)(6), the Note after (a)(6), and (e) through (f) as follows:

(a) An advertisement, other than one excepted from the definition of prospectus by section 2(10) of the Act and rule 134 thereunder, shall be deemed to be a prospectus under section 10(b) of the Act for the purpose of section 5(b)(1) of the Act if

(1) It is with respect to an investment company registered under the Investment Company Act of 1940 ("1940 Act"), or a business development company which is selling or proposing to sell its securities pursuant to a registration statement which has been filed under the Act,

* * * * *

(3) * * *

Note.—The fact that the statements included in the advertisement are included in the section 10(a) prospectus does not relieve the issuer, underwriter or dealer of the obligation to ensure that the advertisement is not false or misleading.

* * * * *

(5) It does not contain and is not accompanied by any application by which a prospective investor may invest in the investment company; *Provided, however,* that a prospectus meeting the requirements of section 10(a) of the Act by which a unit investment trust offers periodic payment plan certificates may contain a contract application although the prospectus includes another prospectus that, pursuant to this rule, omits certain information required by section 10(a) of the Act regarding investment companies in which the unit investment trust invests,

(6) In the case of an advertisement containing performance data of an open-end management investment company or a separate account registered under the 1940 Act as a unit investment trust offering variable annuity contracts ("trust account"), it includes a legend disclosing that the performance data quoted represents past performance and that the investment return and principal value of an investment will fluctuate so that an investor's shares, when redeemed, may be worth more or less than their original cost; *Provided, however,* That an advertisement may omit legend disclosure pertaining to the fluctuation of the principal value of an investment in a money market fund. In addition, if a sales load or any other nonrecurring fee is charged, the advertisement must disclose the maximum amount of the load or fee; if the sales load or fee is not reflected, the advertisement must also disclose that the performance data does not reflect its deduction, and that, if reflected, the load or fees would reduce the performance quoted.

Note.—All advertisements made pursuant to this rule are subject to Rule 420 [17 CFR 230.420] that requires all of the printed text of omitting prospectus advertisements to be in at least 8-point type.

* * * * *

(c) * * *

Note.—These advertisements, unless filed with the NASD, are required to be filed in accordance with the requirements of Rule 497 [17 CFR 230.497].

(d) In the case of an investment company that holds itself out to be a "money market" fund or has an investment policy calling for investment of at least 80 percent of its assets in debt securities maturing in 13 months or less, any quotation of the company's yield contained in an advertisement shall be:

(1) A quotation of current yield based on the method of computation prescribed in Form N-1A (set forth in §§ 239.15A and 274.11A of this chapter), Form N-3 (set forth in §§ 239.17a and 274.11b of this chapter), or Form N-4 (set forth in §§ 239.17b and 274.11c of this chapter) and identifying the length of and the date of the last day in the base period used in computing that quotation, or

(2) A quotation of current yield described in paragraph (d)(1) of this section, and a corresponding quotation of effective yield based on the method of computation prescribed in Forms N-1A, N-3, or N-4; *Provided, however,* that when both a quotation of current yield and effective yield are used in the same advertisement, each quotation shall relate to an identical base period and shall be given equal prominence.

(e) In the case of an open-end management investment company or a trust account (other than a money market fund referred to in paragraph (d) of this section), any quotation of the company's performance contained in an advertisement shall be limited to quotations of:

(1) A current yield that—

(i) Is based on the methods of computation prescribed in Form N-1A, N-3, or N-4;

(ii) Is accompanied by quotations of total return as provided for in paragraph (e)(3) of this section;

(iii) Is set out in no greater prominence than the required quotations of total return; and

(iv) Identifies the length of and the date of the last day in the base period used in computing the quotation.

(2) A tax equivalent yield that—

(i) Is based on the methods of computation prescribed in Form N-1A, N-3, or N-4;

(ii) Is accompanied by quotations of yield as provided for in paragraph (e)(1) of this section and total return as provided for in paragraph (e)(3) of this section;

(iii) Is set out in no greater prominence than the required quotations of yield and total return;

(iv) Relates to the same base period as the required quotation of yield; and

(v) Identifies the length of and the date of the last day in the base period used in computing the quotation.

(3) Average annual total return for one, five, and ten year periods; *Provided,* that if the company's registration statement under the Securities Act of 1933 [15 U.S.C. 77A *et seq.*] has been in effect for less than one, five, or ten years, the time period during which the registration statement was in effect is substituted for the period(s) otherwise prescribed; *and provided further,* that such quotations—

(i) Are based on the methods of computation prescribed in Form N-1A, N-3, or N-4;

(ii) Are current to the most recent calendar quarter ended prior to the submission of the advertisement for publication;

(iii) Are set out with equal prominence; and

(iv) Identify the length of and the last day of the one, five, and ten year periods; and

(4) Any other historical measure of company performance (not subject to any prescribed method of computation) if such measurement—

(i) Reflects all elements of return;

(ii) Is accompanied by quotations of total return as provided for in paragraph (e)(3) of this section;

(iii) Is set out in no greater prominence than the required quotations of total return; and

(iv) Identifies the length of and the last day of the period for which performance is measured.

(f) All performance data contained in any advertisement must be as of the most recent practicable date considering the type of investment company and the media through which the data will be conveyed; *Provided, however,* That any advertisement containing total return quotations shall be considered to have complied with this provision if the total return quotations are current to the most recent calendar quarter ended prior to the submission of the advertisement for publication.

4. By amending the section heading of § 230.497, by revising paragraphs (a) and (g), and by adding new paragraph (i) to read as follows:

§ 230.497 Filing of investment company prospectuses—number of copies.

(a) Five copies of every form of prospectus sent or given to any person prior to the effective date of the registration statement which varies from the form or forms of prospectus included in the registration statement as filed pursuant to § 230.402(a) of this chapter shall be filed as a part of the registration statement not later than the date such form of prospectus is first sent or given to any person: *Provided, however,* That an investment company advertisement which is deemed to be a section 10(b) prospectus pursuant to § 230.482 of this chapter and which is required to be filed pursuant to this paragraph shall not be filed as part of the registration statement.

* * * * *

(g) Each copy of a prospectus under this rule shall contain in the upper right hand corner of the cover page the paragraph of this rule under which the filing is made and the file number of the registration statement to which the prospectus relates. In addition, each investment company advertisement deemed to be a section 10(b) prospectus pursuant to § 230.482 of this chapter shall contain in the upper right hand corner of the cover page the legend "Rule 482 ad." The information required by this paragraph may be set forth in longhand, provided it is legible.

* * * * *

(i) An investment company advertisement deemed to be a section 10(b) prospectus pursuant to § 230.482 of this chapter shall be considered to be filed with the Commission upon filing with a national securities association registered under Section 15A of the Securities Exchange Act of 1934 [15 U.S.C. 78*o*] that has adopted rules providing standards for the investment company advertising practices of its members and has established and implemented procedures to review that advertising.

5. By revising paragraph (c)(7) of § 230.499 to read as follows:

§ 230.499 EDGAR temporary rule.

* * * * *

(c) * * *

(7) *Rules 424 and 497 of Regulation C, "Filing of prospectus—number of copies" and "Filing of investment company prospectus—number of copies."* The copies required to be filed by paragraphs (a) and (b) of Rules 424 and 497 under the Securities Act (§§ 230.424 and 230.497 of this chapter) shall consist of a copy of the document in an electronic format with an explanation before the cover page that narratively describes in detail the variations from such document of any form of prospectus (or Statement of Additional Information) sent or given to any person prior to the effective date of the registration statement or used after the effective date. The explanation shall be a part of the filed document. Copies required to be filed by paragraphs (a) and (b) of Rule 497 may be omitted unless the prospectus (or Statement of Additional Information) contains substantive changes from or additions to a prospectus (or Statement of Additional Information) previously filed with the Commission in an electronic format.

* * * * *

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

6. The authority citation for Part 270 continues to read in part as follows:

Authority: The Investment Company Act of 1940, 15 U.S.C. 80a–1, *et seq.* * * *

7. By adding § 270.24b–3 to read as follows:

§ 270.24b–3 Sales literature deemed filed.

Any advertisement, pamphlet, circular, form letter or other sales literature addressed to or intended for distribution to prospective investors shall be deemed filed with the Commission for purposes of section 24(b) of the Act [15 U.S.C. 80a–24(b)] upon filing with a national securities association registered under Section 15A of the Securities Exchange Act of 1934 [15 U.S.C. 78*o*] that has adopted rules providing standards for the investment company advertising practices of its members and has established and implemented procedures to review that advertising.

8. By amending paragraph (a) of § 270.31a–2 by substituting a semicolon for the period at the end of paragraph (a)(2) and adding a new paragraph (a)(3) to read as follows:

§ 270.31a–2 Records to be preserved by registered investment companies, certain majority owned subsidiaries thereof, and other persons having transactions with registered investment companies.

(a) * * *

(3) Preserve for a period not less than 6 years from the end of the fiscal year last used, the first 2 years in an easily accessible place, any advertisement, pamphlet, circular, form letter or other sales literature addressed to or intended for distribution to prospective investors.

* * * * *

9. By adding § 270.34b–1 to read as follows:

§ 270.34b–1 Sales literature deemed to be misleading.

Any advertisement, pamphlet, circular, form letter, or other sales literature addressed to or intended for distribution to prospective investors that is required to be filed with the Commission by section 24(b) of the Act [15 U.S.C. 80a–24(b)] and that contains any investment company performance data (other than a report to shareholders under section 30(d) of the Act [15 U.S.C. 80a–29(d)] containing only performance data for the period of the report) ("sales literature") shall have omitted to state a fact necessary in order to make the statements made therein not materially misleading unless the sales literature also contains performance data specified in paragraphs (a), (b), and (c) of this section, and the disclosure required by paragraph (a)(6) of rule 482 under the Securities Act of 1933 [17 CFR 230.482(a)(6)].

(a) Sales literature containing any investment company performance data (except that of a money market fund) shall also contain the total return information required by paragraph (e)(3) of rule 482 [17 CFR 230.482(e)(3)].

(b) Sales literature containing a quotation of yield or other similar quotation purporting to demonstrate the income earned or distributions made by the company shall contain a quotation of current yield specified by paragraph (e)(1) of rule 482 [17 CFR 230.482(e)(1)], or, in the case of a money market fund, paragraph (d)(1) of rule 482 [17 CFR 230.482(d)(1)].

(c) Sales literature containing a quotation of tax equivalent yield or other similar quotation purporting to demonstrate the tax equivalent of income earned or distributions made by the company shall contain a quotation of tax equivalent yield specified by paragraph (e)(2) and current yield specified by paragraph (e)(1) of rule 482, or, in the case of a money market fund, paragraph (d)(1) of rule 482 [17 CFR 230.482(d)(1)].

Note.—Sales literature containing a quotation of yield or tax equivalent yield must also contain the total return information. The currentness and prominence requirements of those provisions of rule 482 cited in paragraphs (a), (b), and (c) of this section, also apply to sales literature.

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

10. The authority citation for Part 274 continues to read as follows:

Authority: The Investment Company Act of 1940, 15 U.S.C. 80a-1 *et seq.*

11. By amending the General Instructions by adding D.2., revising paragraph 1(b) of the General Instructions for Parts A and B, revising Items 3(c) and 22, and adding (b)(16) and revising Instructions to Item 24 of Form N-1A as follows:

§ 274.11A Form N-1A, registration statement of open-end management investment companies.

* * * * *

General Instructions

* * * * *

D. Amendments

* * * * *

2. The revision of an omitting prospectus advertisement for the purpose of updating performance data does not require the filing of an amendment to the prospectus if the performance data is calculated in the manner described in the prospectus and the Statement of Additional Information.

* * * * *

General Instructions for Parts A and B

1. * * *

* * * * *

(b) Item 3 of Part A, "Condensed Financial Information" (except paragraph (c)), should not be further back in the prospectus than the fifth page thereof and should not be preceded by any other chart or table (except for the table of contents required by Rule 481(c) under the 1933 Act [17 CFR 230.481(c)]).

* * * * *

Part A. Information Required in a Prospectus

* * * * *

Item 3. Condensed Financial Information

* * * * *

(c) If the Registrant advertises any performance data, include a brief explanation of how performance is calculated, whether the data reflects sales load or other nonrecurring charges, and the effect on performance of excluding such charges. If the Registrant advertises its performance calculated in more than one manner, briefly explain the material differences between the calculations.

* * * * *

Part B. Information Required in a Statement of Additional Information

* * * * *

Item 22. Calculation of Performance Data

(a) Money Market Funds. If the Registrant holds itself out to be a "money market" fund or has an investment policy calling for investment of at least 80% of its assets in debt securities maturing in thirteen months or less, and if it advertises a yield quotation or an effective yield quotation, furnish:

(i) A yield quotation based on the seven days ended on the date of the most recent balance sheet included in the registration statement, computed by determining the net change, exclusive of capital changes, in the value of a hypothetical pre-existing account having a balance of one share at the beginning of the period, subtracting a hypothetical charge reflecting deductions from shareholder accounts, and dividing the difference by the value of the account at the beginning of the base period to obtain the base period return, and then multiplying the base period return by (365/7) with the resulting yield figure carried to at least the nearest hundredth of one percent;

(ii) An effective yield quotation based on the seven days ended on the date of the most recent balance sheet included in the registration statement, carried to at least the nearest hundredth of one percent, computed by determining the net change, exclusive of capital changes, in the value of a hypothetical preexisting account having a balance of one share at the beginning of the period, subtracting a hypothetical charge reflecting deductions from shareholder accounts, and dividing the difference by the value of the account at the beginning of the base period to obtain the base period return, and then compounding the base period return by adding 1, raising the sum to a power equal to 365 divided by 7, and subtracting 1 from the result, according to the following formula:

$$\text{Effective yield} = [(\text{Base period return} + 1)^{365/7}] - 1;$$

(iii) The length of and the last day in the base period used in computing the quotation(s); and

(iv) A description of the method(s) by which the yield quotation(s) is computed.

Instructions:

1. When calculating the yield or effective yield quotations, the calculation of net change in account value must include:

(a) The value of additional shares purchased with dividends from the original share and dividends declared on both the original share and any such additional shares;

(b) All fees, other than nonrecurring account or sales charges, that are charged to all shareholder accounts in proportion to the length of the base period.

For any account fees that vary with the size of the account, assume an account size equal to the Registrant's mean (or median) account size.

2. Exclude realized gains and losses from the sale of securities and unrealized appreciation and depreciation from the calculation of yield and effective yield.

3. Disclose the amount or specific rate of any nonrecurring account or sales charges not included in the calculation of the yield.

4. If the Registrant does not advertise an effective yield quotation, it need not disclose or discuss the computation of an effective yield quotation.

(b) *Other Registrants:*

(i) *Total Return.* If the Registrant (other than a registrant described in paragraph (a)) advertises any performance data, furnish—

(A) Average annual total return quotations for the 1, 5, and 10 year periods ended on the date of the most recent balance sheet included in the registration statement, computed by finding the average annual compounded rates of return over the 1, 5, and 10 year periods that would equate the initial amount invested to the ending redeemable value, according to the following formula:

$$P(1+T)^n = ERV$$

Where:

P = a hypothetical initial payment of $1,000
T = average annual total return
n = number of years
ERV = ending redeemable value of a hypothetical $1,000 payment made at the beginning of the 1, 5, or 10 year periods at the end of the 1, 5, or 10 year periods (or fractional portion thereof);

(B) The length of and the last day in the period used in computing the quotation(s); and

(C) A description of the method by which average total return is computed.

Instructions:

1. Assume the maximum sales load (or other charges deducted from payments) is deducted from the initial $1,000 payment.

2. Assume all dividends and distributions by the fund are reinvested at the price stated in the prospectus on the reinvestment dates during the period, *i.e.*, total return must reflect any sales load charged upon reinvestment of dividends.

3. Include all recurring fees that are charged to all shareholder accounts. For any account fees that vary with the size of the account, assume an account size equal to the Registrant's mean (or median) account size. If recurring fees charged to shareholder accounts are paid other than by redemption of fund shares, they should be appropriately reflected.

4. Determine the ending redeemable value by assuming a complete redemption at the end of the 1, 5, or 10 year periods and the deduction of all nonrecurring charges deducted at the end of each period.

5. If the Registrant's registration statement has been in effect less than 1, 5, or 10 years, the time period during which the registration statement has been in effect should be substituted for the periods stated.

6. Carry the total return quotation to the nearest hundredth of one percent.

7. If the Registrant includes the total return information in its prospectus, it need only be current to the end of the Registrant's most recent fiscal year.

(ii) *Yield.* If the Registrant (other than a registrant described in paragraph (a)) advertises its yield, furnish—

(A) Yield quotation based on a 30-day (or one month) period ended on the date of the most recent balance sheet included in the registration statement, computed by dividing the net investment income per share earned during the period by the maximum offering price per share on the last day of the period, according to the following formula:

$$\text{Yield} = 2\left[\left(\frac{a-b}{cd}+1\right)^{6}-1\right]$$

Where:

a = dividends and interest earned during the period.

b = expenses accrued for the period (net of reimbursements).

c = the average daily number of shares outstanding during the period that were entitled to receive dividends.

d = the maximum offering price per share on the last day of the period.

(B) The length of and the last day in the base period used in computing the quotation; and

(C) A description of the method by which yield is computed.

Instructions:

1. To calculate interest earned (for the purpose of "a" above) on debt obligations:

(a) Compute the yield to maturity of each obligation held by the Registrant based on the market value of the obligation (including actual accrued interest) at the close of business on the last business day of each month, or, with respect to obligations purchased during the month, the purchase price (plus actual accrued interest).

(b) Divide the yield to maturity by 360 and multiply the quotient by the market value of the obligation (including actual accrued interest) (as referred to in Instruction 1(a) above) to determine the interest income on the obligation for each day of the subsequent month that the obligation is in the portfolio. Assume that each month has thirty days.

(c) Total the interest earned on all debt obligation and all dividends accrued on all equity securities during the thirty-day or one month period.

Note.—Although the period for computing interest earned referred to above is based on calendar months, a thirty-day yield may be calculated by aggregating the daily interest on the portfolio from portions of two months. Nothing in these instructions prohibits a Registrant from recalculating daily interest income on the portfolio more than once a month.

(d) For purpose of Instruction 1(a), the maturity of an obligation with a call provision(s) is the next call date on which the obligation reasonably may be expected to be called or, if none, the maturity date.

(e) In the case of a tax-exempt obligation issued without original issue discount and having a current market discount, use the coupon rate of interest in lieu of the yield to maturity. Where, in the case of a tax-exempt obligation with original issue discount, the discount based on the current market value exceeds the then-remaining portion of original issue discount (market discount), the yield to maturity is the imputed rate based on the original issue discount calculation. Where, in the case of a tax-exempt obligation with original issue discount, the discount based on the current market value is less than the then-remaining portion of original issue discount (market premium), the yield to maturity should be based on the market value.

2. With respect to the treatment of discount and premium on mortgage or other receivables-backed obligations which are expected to be subject to monthly payments of principal and interest ("paydowns"):

(a) Account for gain or loss attributable to actual monthly paydowns as an increase or decrease to interest income during the period.

(b) The Registrant may elect (i) to amortize the discount and premium on the remaining security, based on the cost of the security, to the weighted average maturity date, if such information is available, or to the remaining term of the security, if the weighted average maturity date is not available, or (ii) not to amortize discount or premium on the remaining security.

3. Solely for the purpose of computing yield, recognize dividend income by accruing 1/360 of the stated dividend rate of the security each day that the security is in the portfolio.

4. Do not use equalization accounting in the calculation of yield.

5. Include expenses accrued pursuant to a plan adopted under rule 12b-1 under the 1940 Act [17 CFR 270.12b-1] among the expenses accrued for the period. Reimbursement accrued pursuant to a plan may reduce the accrued expenses, but only to the extent the reimbursement does not exceed expenses accrued for the period.

6. Include among the expenses accrued for the period all recurring fees that are charged to all shareholder accounts in proportion to the length of the base period. For any account fees that vary with the size of the account, assume an account size equal to the Registrant's mean (or median) account size.

7. Undeclared earned income, computed in accordance with generally accepted accounting principles, may be subtracted from the maximum offering price. Undeclared earned income is the net investment income which, at the end of the base period, has not been declared as a dividend, but is reasonably expected to be and is declared as a dividend shortly thereafter.

8. Disclose the amount or specific rate of any nonrecurring account or sales charges.

(iii) *Tax Equivalent Yield.* If the Registrant (including a registrant described in paragraph (a)) advertises a tax equivalent yield, furnish,

(A) A tax equivalent yield based on a 30-day (or one month) period ended on the date of the most recent balance sheet included in the registration statement, computed by dividing that portion of the yield of the Registrant (as computed pursuant to Item 22(b)(ii)) which is tax-exempt by one minus a stated income tax rate and adding the product to that portion, if any, of the yield of the Registrant that is not tax-exempt;

(B) The length of and the last day in the base period used in computing the quotation; and

(C) A description of the method by which the quotation is computed.

(iv) *Non-Standardized Performance.* If the Registrant (other than a registrant described in paragraph (a)) advertises any non-standardized performance data, furnish—

(A) A quotation of performance, computed by the non-standardized method;

(B) The length of and the last day in the period used in computing the quotation; and

(C) A description of the method by which the performance data is computed.

* * * * *

Part C. Other Information

Item 24. Financial Statements and Exhibits

* * * * *

(b) Exhibits:

* * * * *

(16) schedule for computation of each performance quotation provided in the Registration Statement in response to Item 22 (which need not be audited).

* * * * *

Instructions:

Subject to the Rules regarding incorporation by reference, the foregoing exhibits shall be filed as part of the Registration Statement. Exhibits numbered 10–12 and 16 above are required to be filed only as part of a 1933 Act Registration Statement. Exhibits shall be appropriately lettered or numbered for convenient reference. Exhibits incorporated by reference may bear the designation given in a previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits required above.

12. Guideline 32, of Guidelines for Form N-1A, is revised to read as follows:

Guide 32. *Performance Data*

Item 3(c) requires a brief explanation of how the registrant calculates its historical performance for purposes of advertising this data. Algebraic equations and detailed, intricate explanations should be avoided in favor of a more general, concise description of the essential features of the data and how it is computed. For example, a no-load money market fund advertising both its yield and effective yield might describe these two yields in the following manner:

From time to time the Fund advertises its "yield" and "effective yield." *Both yield figures are based on historical earnings and are not intended to indicate future performance.* The "yield" of the Fund refers to the income generated by an investment in the Fund over a seven-day period (which period will be stated in the advertisement). This income is then "annualized." That is, the amount of income generated by the investment during that week is assumed to be

generated each week over a 52-week period and is shown as a percentage of the investment. The "effective yield" is calculated similarly but, when annualized, the income earned by an investment in the Fund is assumed to be reinvested. The "effective yield" will be slightly higher than the "yield" because of the compounding effect of this assumed reinvestment.

For guidance in responding to Item 22, the registrant should refer to Investment Company Act Release No. 13049 (February 28, 1983) [48 FR 10297 (March 11, 1983)]; Investment Company Act Release No. 11028 (January 28, 1980) [45 FR 7578 (February 4, 1980)]; and Investment Company Act Release No. 11379 (September 30, 1980) [45 FR 67079 (October 9, 1980)].

13. By amending the General Instructions by revising Instruction F, paragraph 1(b) of the General Instructions for Parts A and B, Item 4(c), Item 25, Item 28(b)(16), and Instructions to Item 28 of Form N-3 as follows:

§ 274.11b Form N-3, registration statement of separate accounts organized as management investment companies.

* * * * *

General Instructions

* * * * *

F. Amendments

1. Attention is specifically directed to Rule 8b-16 under the 1940 Act [17 CFR 270.8b-16] which requires the annual amendment of Registration Statements filed pursuant to section 8(b) of the 1940 Act. Where Form N-3 has been used to file a registration statement under both the 1933 and 1940 Acts, any amendment of that registration statement shall be deemed to be filed under both Acts unless otherwise indicated on the facing sheet.

2. The revision of an omitting prospectus advertisement for the purpose of updating performance data does not require the filing of an amendment to the prospectus if the performance data is calculated in the manner described in the prospectus and the Statement of Additional Information.

* * * * *

General Instructions for Parts A and B

1. * * *

* * * * *

(b) Item 4, "Condensed Financial Information" (except paragraph (c)), should not be preceded by any other chart or table (except for the table of contents required by Rule 481 under the 1933 Act [17 CFR 230.481]).

* * * * *

Part A. Information Required in a Prospectus

* * * * *

Item 4. Condensed Financial Information

* * * * *

(c) If the Registrant advertises any performance data, include a brief explanation of how performance is calculated, whether the data reflects sales load or other nonrecurring charges, and the effect on performance of excluding such charges. If the Registrant advertises its performance calculated in more than one manner, briefly explain the material differences between the calculations.

* * * * *

Part B. Information Required in a Statement of Additional Information

* * * * *

Item 25. Calculation of Performance Data

(a) *Money Market Accounts.* For each account or sub-account that is held out to be a "money market" account or sub-account or has an investment policy calling for investment of at least 80% of its assets in debt securities maturing in thirteen months or less, and that advertises a yield quotation or an effective yield quotation, furnish:

(i) A yield quotation based on the seven days ended on the date of the most recent balance sheet of the Registrant included in the registration statement, computed by determining the net change, exclusive of capital changes, in the value of a hypothetical pre-existing account having a balance of one accumulation unit of the account or sub-account at the beginning of the period, subtracting a hypothetical charge reflecting deductions from contractowner accounts, and dividing the difference by the value of the account at the beginning of the base period to obtain the base period return, and then multiplying the base period return by (365/7) with the resulting yield figure carried to at least the nearest hundredth of one percent;

(ii) An effective yield quotation based on the seven days ended on the date of the most recent balance sheet of the Registrant included in the registration statement, carried to at least the nearest hundredth of one percent, computed by determining the net change, exclusive of capital changes, in the value of a hypothetical pre-existing account having a balance of one accumulation unit of the account or sub-account at the beginning of the period, subtracting a hypothetical charge reflecting deductions from contractowner accounts, and dividing the difference by the value of the account at the beginning of the base period to obtain the base period return, and then compounding the base period return by adding 1, raising the sum to a power equal to 365 divided by 7, and subtracting 1 from the result, according to the following formula:

$$\text{Effective yield} = [(\text{Base period return} + 1)^{365/7}] - 1;$$

(iii) The length of and the last day in the base period used in computing the quotation(s); and

(iv) A description of the method(s) by which the yield quotation(s) is computed.

Instructions:

1. When calculating the yield or effective yield quotations, the calculation of net change in account value must include all deductions that are charged to all contractowner accounts in proportion to the length of the base period. For any account fees that vary with the size of the account, assume an account size equal to the sub-account's mean (or median) account size.

2. Deductions from purchase payments and sales loads assessed at the time of redemption or annuitization should not be reflected in the computation of yield or effective yield. However, the amount or specific rate of the deduction must be disclosed.

3. Exclude realized gains and losses from the sale of securities and unrealized appreciation and depreciation from the calculation of yield and effective yield.

4. The Registrant may furnish separate yield quotations for individual and group contracts.

5. If the Registrant does not advertise an effective yield quotation, it need not disclose or discuss the computation of an effective yield quotation.

(b) *Other Accounts*

(i) *Total Return.* If the Registrant (other than a registrant described in paragraph (a)) advertises any performance data, furnish—

(A) Average annual total return quotations for the 1, 5, and 10 year periods ended on the date of the most recent balance sheet of the Registrant included in the registration statement, computed by finding the average annual compounded rates of return over the 1, 5, and 10 year periods that would equate the initial amount invested to the ending redeemable value, according to the following formula:

$$P(1+T)^n = ERV$$

Where:

P = a hypothetical initial payment of $1000
T = average annual total return
n = number of years
ERV = ending redeemable value of a hypothetical $1000 payment made at the beginning of the 1, 5, or 10 year periods at the end of the 1, 5, or 10 year periods (or fractional portion thereof);

(B) the length of and the last day in the period used in computing the quotation(s); and

(C) a description of the method by which average total return is computed.

Instructions:

1. Assume the maximum sales load (or other charges deducted from payments) is deducted from the initial $1,000 payment.

2. Include all recurring fees that are charged to all contractowner accounts. For any account fees that vary with the size of the account, assume an account size equal to the account's mean (or median) account size. If recurring fees charged to contractowner accounts are paid other than by redemption of accumulation units, they should be appropriately reflected.

3. Determine the ending redeemable value by assuming a complete redemption at the end of the 1, 5, or 10 year periods and the deduction of all nonrecurring charges deducted at the end of each period.

4. If the Registrant's registration statement has been in effect less than one, five, or ten years, the time period during which the registration statement has been in effect should be substituted for the period stated.

5. Carry the total return quotation to the nearest hundredth of one percent.

6. If the Registrant includes the total return information in its prospectus, it need only be current to the end of the Registrant's most recent fiscal year.

(ii) *Yield.* If the Registrant (other than a registrant described in paragraph (a)) advertises its yield, furnish—

(A) A yield quotation based on a 30-day (or one month) period ended on the date of the most recent balance sheet of the Registrant included in the registration statement, computed by dividing the net investment income per accumulation unit earned during the period by the maximum, offering price per unit on the last day of the period, according to the following formula:

$$\text{Yield} = 2\left[\left(\frac{a-b}{cd}+1\right)^{6}-1\right]$$

Where:

a = dividends and interest earned during the period.

b = expenses accrued for the period (net of reimbursements).

c = the average daily number of accumulation units outstanding during the period.

d = the maximum offering price per accumulation unit on the last day of the period.

(B) The length of and the last day in the base period used in computing the quotation; and

(C) A description of the method by which yield is computed.

Instructions:

1. To calculate interest earned (for the purpose of "a" above) on debt obligations:

(a) Compute the yield to maturity of each obligation held by the Registrant based on the market value of the obligation (including actual accrued interest) at the close of business on the last business day of each month, or, with respect to obligations purchased during the month, the purchase price (plus actual accrued interest).

(b) Divide the yield to maturity by 360 and multiply the quotient by the market value of the obligation (including actual accrued interest) (as referred to in Instruction 1(a) above) to determined the interest income on the obligation for each day of the subsequent month that the obligation is in the portfolio. Assume that each month has thirty days.

(c) Total the interest earned on all debt obligation and all dividends accrued on all equity securities during the thirty-day or one month period.

Note: Although the period for computing interest earned referred to above is based on calendar months, a thirty-day yield may be calculated by aggregating the daily interest on the portfolio from portions of two months. Nothing in these instructions prohibits a Registrant from recalculating daily interest income on the portfolio more than once a month.

(d) For purpose of Instruction 1(a), the maturity of an obligation with a call provision(s) is the next call date on which the obligation reasonably may be expected to be called or, if none, the maturity date.

2. With respect to the treatment of discount and premium on mortgage or other receivables-backed obligations which are expected to be subject to monthly payments of principal and interest ("paydowns"):

(a) Account for gain or loss attributable to actual monthly paydowns as an increase or decrease to interest income during the period.

(b) The Registrant may elect (i) to amortize the discount and premium on the remaining security, based on the cost of the security, to the weighted average maturity date, if such information is available, or to the remaining term of the security, if the weighted average maturity date is not available, or (ii) not to amortize discount or premium on the remaining security.

3. Solely for the purpose of computing yield, recognize dividend income by accruing 1/360 of the stated dividend rate of the security each day that the security is in the portfolio.

4. Do not use equalization accounting in the calculation of yield.

5. Include expenses accrued pursuant to a plan adopted under rule 12b-1 under the 1940 Act [17 CFR 270.12b-1] among the expenses accrued for the period. Reimbursement accrued pursuant to a plan may reduce the accrued expenses, but only to the extent the reimbursement does not exceed expenses accrued for the period.

6. Include among the expenses accrued for the period all recurring fees that are charged to all contractowner accounts in proportion to the length of the base period. For any account fees that vary with the size of the account, assume an account size equal to the sub-account's mean (or median) account size.

7. Disclose the amount or specific rate of any nonrecurring account or sales charges.

(iii) *Non-Standardized Performance.* If the Registrant (other than a registrant described in paragraph (a)) advertises any non-standardized performance data, furnish—

(A) A quotation of performance, computed by the non-standardized method;

(B) The length of and the last day in the period used in computing the quotation; and

(C) A description of the method by which the performance data is computed.

* * * * *

Part C. Other Information

Item 28. Financial Statements and Exhibits

* * * * *

(b) Exhibits:

* * * * *

(16) Schedule for computation of each performance quotation provided in the Registration Statement in response to Item 25 (which need not be audited).

* * * * *

Instructions:

1. Subject to the Rules regarding incorporation by reference and Instruction 2 below, the foregoing exhibits shall be filed as part of the Registration Statement. Exhibits numbered 5, 12, 13, 14, and 16 above need be filed only as part of a 1933 Act Registration Statement. Exhibits shall be lettered or numbered for convenient reference. Exhibits incorporated by reference may bear the designation given in a previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits.

* * * * *

14. Guideline 30, of Guidelines for Form N-3, is revised to read as follows:

Guide 30. *Performance Data*

Item 4(c) requires a brief explanation of how the registrant calculates its historical performance for purposes of advertising this data. Algebraic equations and detailed, intricate explanations should be avoided in favor of a more general, concise description of the essential features of the data and how it is computed. For example, a registrant advertising its money market sub-account's yield and effective yield might describe these two yields in the following manner:

From time to time the Account advertises its money market sub-account's "yield" and "effective yield." *Both yield figures are based on historical earnings and are not intended to indicate future performance.* The "yield" of the sub-account refers to the income generated by an investment in the sub-account over a seven-day period (which period will be stated in the advertisement). This income is then "annualized." That is, the amount of income generated by the investment during that week is assumed to be generated each week over a 52-week period and is shown as a percentage of the investment. The "effective yield" is calculated similarly but, when annualized, the income earned by an investment in the sub-account is assumed to be reinvested. The "effective yield" will be slightly higher than the "yield" because of the compounding effect of this assumed reinvestment. Neither yield quotation reflects sales load deducted from purchase payments which, if included, would reduce the "yield" and "effective yield."

For guidance in responding to Item 25, the registrant should refer to Investment Company Act Release No. 13049 (February 28, 1983) [48 FR 10297 (March 11, 1983)]; Investment Company Act Release No. 11028 (January 28, 1980) [45 FR 7578 (February 4, 1980)]; and Investment Company Act Release No. 11379 (September 30, 1980) [45 FR 67079 (October 9, 1980)].

Deductions should be prorated among the sub-accounts of the separate account. If the deduction is a flat fee charged to all contractowner accounts (*e.g.*, $25.00 per contractowner account per year), the deduction should be prorated by multiplying the flat fee by a fraction the numerator of which is the average number of contractowner accounts that have money allocated to the sub-account and the denominator of which is the sum of the average number of contractowner accounts for all of the subaccounts for that kind of contract.

Where the registrant issues more than one contract form and the performance for each is materially different (due, for example, to different sales loads, fees, or other charges), the registrant should quote the performance relating to the contract form containing the highest level of charges or calculate and quote separate performance figures for each contract form advertised. Where the charge structure among or between different contract forms is so different that none can be determined to possess the "highest level" of charges, performance figures for all forms should be quoted. Where separate performance figures are quoted for different

contract forms, the omitting prospectus advertisement should clearly disclose the trade name or other appropriate identification of each form and, if relevant, the particular category of investor who may purchase each form (*e.g.*, groups or individuals), or type of retirement plan.

15. By amending the General Instructions by revising paragraph F, 1(b) of the General Instructions for Parts A and B and items 4(c) and 21 and revising Item 24(b)(13) the instructions to Item 24 of Form N–4 to read as follows:

§ 274.11c Form N–4, registration statement of separate accounts organized as unit investment trusts.

* * * * *

General Instructions

* * * * *

F. Amendments

1. Where Form N–4 has been used to file a registration statement under both the 1933 and 1940 Acts, any amendment of that registration statement shall be deemed to be filed under both Acts unless otherwise indicated on the facing sheet.

2. The revision of an omitting prospectus advertisement for the purpose of updating performance data does not require the filing of an amendment to the prospectus if the performance data is calculated in the manner described in the prospectus and the Statement of Additional Information.

* * * * *

General Instructions for Parts A and B

1. * * *

* * * * *

(b) Item 4, "Condensed Financial Information" (except paragraph (b)), should not be preceded by any other chart or table (except for the table of contents required by Rule 481 under the 1933 Act [17 CFR 230.481]).

* * * * *

Part A. Information Required in a Prospectus

* * * * *

Item 4. Condensed Financial Information

* * * * *

(c) If the Registrant advertises any performance data, include a brief explanation of how performance is calculated, whether the data reflects sales load or other nonrecurring charges, and the effect on performance of excluding such charges. If the Registrant advertises its performance calculated in more than one manner, briefly explain the material differences between the calculations.

* * * * *

Part B. Information Required in a Statement of Additional Information

* * * * *

Item 21. Calculation of Performance Data

(a) *Money Market Funded Sub-Accounts.* For each sub-account that is funded by a "money market" fund or portfolio company with an investment policy calling for investment of at least 80% of its assets in debt securities maturing in thirteen months or less, and for which the Registrant advertises a yield quotation or an effective yield quotation, furnish:

(i) A yield quotation based on the seven days ended on the date of the most recent balance sheet of the Registrant included in the registration statement, computed by determining the net change, exclusive of capital changes, in the value of a hypothetical pre-existing account having a balance of one accumulation unit of the sub-account at the beginning of the period, subtracting a hypothetical charge reflecting deductions from contractowner accounts, and dividing the difference by the value of the account at the beginning of the base period to obtain the base period return, and then multiplying the base period return by (365/7) with the resulting yield figure carried to at least the nearest hundredth of one percent;

(ii) An effective yield quotation based on the seven days ended on the date of the most recent balance sheet of the Registrant included in the registration statement, carried to at least the nearest hundredth of one percent, computed by determining the net change, exclusive of capital changes, in the value of a hypothetical pre-existing account having a balance of one accumulation unit of the sub-account at the beginning of the period, subtracting a hypothetical charge reflecting deductions from contractowner accounts, and dividing the difference by the value of the account at the beginning of the base period to obtain the base period return, and then compounding the base period return by adding 1, raising the sum to a power equal to 365 divided by 7, and subtracting 1 from the result, according to the following formula:

$$\text{Effective yield} = [(\text{Base period return} + 1)^{365/7}] - 1;$$

(iii) The length of and the last day in the base period used in computing the quotation(s); and

(iv) A description of the method(s) by which the yield quotation(s) is computed.

Instructions:

1. When calculating the yield or effective yield quotations, the calculation of net change in account value must include all deductions that are charged to all contractowner accounts in proportion to the length of the base period. For any account fees that vary with the size of the account, assume an account size equal to the sub-account's mean (or median) account size.

2. Deductions from purchase payments and sales loads assessed at the time of redemption or annuitization should not be reflected in the computation of yield and effective yield. However, the amount or specific rate of such deductions must be disclosed.

3. Exclude realized gains and losses from the sale of securities and unrealized appreciation and depreciation from the calculation of yield and effective yield.

4. The Registrant may furnish separate yield quotations for individual and group contracts.

5. If the Registrant does not advertise an effective yield quotation, it need not disclose or discuss the computation of an effective yield quotation.

(b) *Other Sub-Accounts*—

(i) *Total Return.* For each sub-account (other than a sub-account described in paragraph (a)) for which the Registrant advertises any performance data, furnish—

(A) Average annual total return quotations for the 1, 5, and 10 year periods ended on the date of the most recent balance sheet of the Registrant included in the registration statement, computed by finding the average annual compounded rates of return over the 1, 5, and 10 year periods that would equate the initial amount invested to the ending redeemable value, according to the following formula:

$$P(1+T)^n = ERV$$

Where:

P = a hypothetical initial payment of $1000
T = average annual total return
n = number of years
ERV = ending redeemable value of a hypothetical $1000 payment made at the beginning of the 1, 5, or 10 year periods at the end of the 1, 5, or 10 year periods (or fractional portion thereof);

(B) the length of and the last day in the period used in computing the quotation(s); and

(C) a description of the method by which average total return is computed.

Instructions:

1. Assume the maximum sales load (or other charges deducted from payments) is deducted from the initial $1,000 payment.

2. Include all recurring fees that are charged to all contractowner accounts. For any account fees that vary with the size of the account, assumed an account size equal to the sub-account's mean (or median) account size. If recurring fees charged to contractowner accounts are paid other than by redemption of accumulation units, they should be appropriately reflected.

3. Determine the ending redeemable value by assuming a complete redemption at the end of the 1, 5, or 10 year periods and the deduction of all nonrecurring charges deducted at the end of each period.

4. If the Registrant's registration statement has been in effect less than one, five, or ten years, the time period during which the registration statement has been in effect should be substituted for the period stated.

5. Carry the total return quotation to the nearest hundredth of one percent.

6. If the Registrant includes the total return information in its prospectus, it need only be current to the end of the Registrant's most recent fiscal year.

(ii) *Yield.* For each sub-account (other than a sub-account described in paragraph (a)) for which the Registrant advertises yield, furnish—

(A) A yield quotation based on a 30-day (or one month) period ended on the date of the most recent balance sheet of the Registrant included in the registration statement, computed by dividing the net investment income per accumulation unit earned during the period by the maximum offering price per unit on the last day of the period, according to the following formula:

$$\text{Yield} = 2\left[\left(\frac{a-b}{cd}+1\right)^{6}-1\right]$$

Where:

a = net investment income earned during the period by the portfolio company attributable to shares owned by the sub-account.

b = expenses accrued for the period (net of reimbursements).

c = the average daily number of accumulation units outstanding during the period.

d = the maximum offering price per accumulation unit on the last day of the period.

(B) The length of and the last day in the base period used in computing the quotation; and

(C) A description of the method by which yield is computed.

Instructions:

1. Include among the expenses accrued for the period all recurring fees that are charged to all contractowner accounts. For any account fees that vary with the size of the account, assume an account size equal to the sub-account's mean (or median) account size.

2. Net investment income must be calculated by the portfolio company as prescribed by Item 22(b)(ii) of Form N-1A. Note: (a − b) = net investment income in the Item 22(b)(ii) equation.

3. Disclose the amount or specific rate of any nonrecurring account or sales charges.

(iii) *Non-Standardized Performance.* For each sub-account (other than a sub-account described in paragraph (a)] for which the Registrant advertises any nonstandardized performance data, furnish—

(A) A quotation of performance, computed by the nonstandardized method;

(B) The length of and the last day in the period used in computing the quotation; and

(C) A description of the method by which the performance data is computed.

* * * * *

Part C. Other Information

Item 24. Financial Statements and Exhibits

* * * * *

(b) Exhibits:

* * * * *

(13) schedule for computation of each performance quotation provided in the Registration Statement in response to Item 21 (which need not be audited).

* * * * *

Instructions:

1. Subject to the Rules regarding incorporation by reference and Instruction 2 below, the foregoing exhibits shall be filed as part of the Registration Statement. Exhibits numbered 3, 9, 10, 11, and 13 above need to be filed only as part of a 1933 Act Registration Statement. Exhibits shall be lettered or numbered for convenient reference. Exhibits incorporated by reference may bear the designation given in a previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits.

16. Guideline 6, of Guidelines for Form N-4, is revised to read as follows:

Guide 6. *Performance Data*

Item 4(b) requires a brief explanation of how the registrant calculates its historical performance for purposes of advertising this data. Algebraic equations and detailed, intricate explanations should be avoided in favor of a more general, concise description of the essential features of the data and how it is computed. For example, a registrant advertising its money market sub-account's yield and effective yield might describe these two yields in the following manner:

From time to time the Account advertises its money market sub-account's "yield" and "effective yield." *Both yield figures are based on historical earnings and are not intended to indicate future performance.* The "yield" of the sub-account refers to the income generated by an investment in the sub-account over a seven-day period (which period will be stated in the advertisement). This income is then "annualized." That is, the amount of income generated by the investment during that week is assumed to be generated each week over a 52-week period and is shown as a percentage of the investment. The "effective yield" is calculated similarly but, when annualized, the income earned by an investment in the sub-account is assumed to be reinvested. The "effective yield" will be slightly higher than the "yield" because of the compounding effect of this assumed reinvestment.

For guidance in responding to Item 21, the registrant should refer to Investment Company Act Release No. 13049 (February 28, 1983) [48 FR 20297 (March 11, 1983)]; Investment Company Act Release No. 11028 (January 28, 1980) [45 FR 7578 (February 4, 1980)]; and Investment Company Act Release No. 11379 (September 30, 1980) [45 FR 67079 (October 9, 1980)].

Deductions should be prorated among the sub-accounts of the separate account. If the deduction is a flat fee charged to all contractowner accounts (e.g., $25.00 per contractowner account per year), the deduction should be prorated by multiplying the flat fee by a fraction the numerator of which is the average number of contractowner accounts that have money allocated to the sub-account and the denominator of which is the sum of the average number of contractowner accounts that have money allocated to each of the sub-accounts for the same kind of contract.

Where the registrant issues more than one contract form and the performance for each is materially different (due, for example, to different sales loads, fees, or other charges), the registrant should quote the performance relating to the contract form containing the highest level of charges or calculate and quote separate performance figures for each contract form advertised. Where the charge structure among or between different contract forms is so different that none can be determined to possess the "highest level" of charges, performance figures for all forms should be quoted. Where separate performance figures are quoted for different contract forms, the omitting prospectus advertisement should clearly disclose the trade name or other appropriate identification of each form and, if relevant, the particular category of investor who may purchase each form (*e.g.*, groups or individuals), or type of retirement plan.

* * * * *

By the Commission, Commissioners Cox and Grundfest dissenting in part. The separate written views of any individual Commissioner will be published forthwith in Release Nos. 33-6753 A, IC-16245 A.

Jonathan G. Katz,

Secretary.

February 2, 1988.

[FR Doc. 88-2670 Filed 2-9-88; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 154, 201, 270 and 271

[Docket Nos. RM83-72-011, RM83-72-012, RM82-16-011, and RM83-16-012; Order No. 391-C]

First Sales of Pipeline Production Under Section 2(21) of the Natural Gas Policy Act of 1978

Issued: February 3, 1988.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; order dismissing petition for rehearing or clarification and denying request for rehearing.

SUMMARY: On August 10, 1987, the Commission issued Order No. 391-B in response to the court remand of Order Nos. 391 and 391-A. Order No. 391-B upheld the Commission's prior determination that pipeline production previously priced on a cost-of-service basis qualifies for the same ceiling price under the NGPA as gas sold by independent producers.

This order dismisses a petition for rehearing or clarification and denies a request for rehearing of Order No. 391-B.

EFFECTIVE DATE: February 3, 1988.

FOR FURTHER INFORMATION CONTACT: Richard White, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8696.

SUPPLEMENTARY INFORMATION:

Order Dismissing Petition for Rehearing or Clarification and Denying Request for Rehearing

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa, Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

This order denies the request by Midwest Energy, Inc. (Midwest) in Docket Nos. RM83-72-011 and RM82-16-011 for rehearing of Order No. 391-B and dismisses the petition by Wexpro Company (Wexpro) in Docket Nos. RM83-72-012 and RM82-16-012 for rehearing and clarification of Order No. 391-B.

Background

On August 22, 1984, the Commission issued Order No. 391,[1] a Final Rule implementing the Supreme Court's decision in *Public Service Commission of the State of New York v. Mid-Louisiana Gas Co., et al. (Mid-La)*.[2] The *Mid-La* decision held that the pricing provisions of Title I of the Natural Gas Policy Act of 1978 (NGPA) are applicable to natural gas produced by interstate pipelines. Section 104 of the NGPA set prices for various categories of natural gas committed to interstate commerce as of the date of enactment of the NGPA in November 1978. In Order No. 391, the Commission held that the section 104 prices applied to pipeline-produced gas as well as gas sold by independent producers. On April 10, 1985, the Commission issued Order No. 391-A,[3] denying rehearing of and clarifying Order No. 391. In 391-A, the Commission stated, among other things, that it believed parity treatment for producer and pipeline production was required by *Mid-La*. In *Phillips Petroleum Company v. FERC (Phillips)*,[4] the United States Court of Appeals for the District of Columbia Circuit concluded that *Mid-La* did not require such interpretation and remanded the case for reconsideration by the Commission of the proper interpretation of section 104. On August 10, 1987, the Commission issued Order No. 391-B, reaffirming the Commission's prior determination allowing pipelines' production from old wells on old leases to be priced on a par with independent producers' gas.[5]

Discussion

1. Petition by Midwest

The issues raised by Midwest have already been adequately considered in the development of Order Nos. 391, 391-A and 391-B. The petition contains no new argument or analysis which warrants rehearing. Nevertheless, some of the issues in Midwest's petition are worthy of note.

Midwest implies that the *Phillips* court vacated Order Nos. 391 and 391-A, in large part, because of its conclusion (supported by dicta in the *Mid-La* opinion) that the rule adopted by the Commission was erroneous and inconsistent with the NGPA.[6] Actually, the *Phillips* court was very definite about not expressing any preference as to how section 104 should be interpreted.[7] The *Phillips* court did not remand the case on the grounds that the "parity pricing" construction of section 104 was incorrect. The *Phillips* court did not endorse the *Mid-La* Court's interpretation of Congress' intent. On the contrary, the court stated: "The Supreme Court's discussion of this issue was clearly *dicta*. It was made in passing without the benefit of briefing or argument. We thus do not view *Mid-Louisiana* as mandating the interpretation of section 104 urged by Phillips." [8]

Midwest claims that the Commission erred in reading *Phillips* as allowing the parity pricing interpretation of section 104 if supported by a rationale independent of reliance on *Mid-La*.[9] On the contrary, the Commission's duty on remand was to interpret section 104 reasonably, without assuming that *Mid-La* requires parity pricing. The support for this interpretation is found throughout *Phillips*.[10]

Midwest asserts that the intent of Congress in section 104 was to "freeze" the price of flowing gas. The intent of Congress, as discussed at length in *Mid-La*, *Phillips*, and Order Nos. 391, 391-A, and 391-B, was to create a single national market and provide incentives for development of gas resources. These goals are promoted by the Commission's interpretation of section 104. In any event, Midwest's assertion begs the question, which is not whether an established price should be frozen or increased, but which price (cost-of-service or producer rate) applies to gas from a pipeline's wells.

Midwest claims that the Commission's construction results in a 'windfall' for pipeline production, and that the *Mid-La* court "held" that section 104 provides absolutely no opportunity for windfall.[11] Midwest is simply repeating the argument previously made by the Commission in *Mid-La*, that applying "first sale" pricing to pipeline production may result in windfall profits.[12] The *Mid-La* Court did not hold that first sale pricing must be arranged so as to avoid profits. Though Midwest relies heavily on the "windfall profits" passage in *Mid-La*, that language, as acknowledged by the *Phillips* Court, is not a finding or a holding but merely *dicta*.

In sum, Midwest states that the Commission's determination that section 104 is meant to apply the same ceiling price to pipeline production gas as gas sold by independent producers reflects a clearly erroneous construction of the NGPA. The Commission believes the interpretation presented in Order No. 391-B is consistent with the plain language, the legislative history and the purposes of the NGPA.

a. *Petition by Wexpro.* Wexpro is a gas producer affiliated with an interstate pipeline (Mountain Fuel Resources, Inc.) and a local distribution company (Mountain Fuel Supply Company). Wexpro states that the Commission's analysis and conclusion in Order No. 391-B appear to apply to Wexpro as a pipeline producer. However, because its situation is unique, Wexpro seeks clarification.[13] Wexpro's predecessor, Mountain Fuel Supply Company, operated as a producer, an interstate pipeline and a local distribution company. Thus, Mountain Fuel's sales were not sales for resale and no just and reasonable rate was ever established by the Commission, although sales of Mountain Fuel's dedicated interstate gas were subject to cost-of-service rate regulation through Utah's and Wyoming's regulation of Mountain Fuel's retail sales. Wexpro asserts that in spite of the differences between Wexpro and other pipeline producers, the national and area rates established by the Federal Power Commission for independent producers which apply to "all pipeline produced gas" apply to Wexpro as well, and seeks confirmation of its assertion by the Commission.

[1] Production Under section 2(21) of the Natural Gas Policy Act of 1978, 49 FR 33849 (Aug. 27, 1984), FERC Stats. and Regs. [Regulations Preambles 1982-1985] ¶ 30,588 (1984); Order No. 391-A, 50 FR 14374 (Apr. 12, 1985), 31 FERC ¶ 61,036 (Apr. 10, 1985); Order No. 391-B, 52 FR 30146 (Aug. 13, 1987), III FERC Stats. & Regs. ¶ 30,760 (Aug. 10, 1987).

[2] 483 U.S. 319 (1983).

[3] 31 FERC ¶ 61,036 (1985).

[4] 792 F.2d 1165 (D.C. Cir. 1986).

[5] 40 FERC ¶ 61,174 (1987).

[6] Midwest at 3.

[7] "We express no opinion about the 'correct' interpretation of section 104." 792 F.2d at 1172.

[8] 792 F.2d at 1171.

[9] Midwest at fn.1.

[10] The court states: "Arguably, a court might uphold FERC's current view of section 104 if the agency exercises its own judgment to resolve the ambiguities in the statute and offers a reasonable rationale for its interpretation." And concludes: "On remand, FERC may construe section 104 so as to justify parity in rates, or it may otherwise interpret section 104." 792 F.2d at 1172.

[11] Midwest at 5.

[12] 483 U.S. at 341.

[13] Wexpro's pleading is also labeled a petition for rehearing but does not seek any revision to Order No. 391-B.

Orders granting or denying petitions for clarification in rulemaking proceedings are not generally case specific, nor do they affect only the particular applicant. Rather, they serve to make clear the overall substance of the order and its requirements. The decisions rendered are generally applicable as part and parcel of the basic order. For this reason, orders or petitions for clarification are published in the **Federal Register**, and may be relied upon by anyone, to the same extent as the underlying order. On the other hand, a fact-specific situation unique to a particular applicant is best handled in a declaratory order, or other established process. The petition will be dismissed, without adjudication on the merits and without prejudice to its being filed in another form. Wexpro may file a request for a declaratory order under § 385.207(a) of the Commission's regulations, or a request for an interpretation by the General Counsel under § 385.1901, accompanied by the appropriate filing fee.

The Commission orders:

(1) The request for rehearing filed in these proceedings by Midwest is denied.

(2) The petition by Wexpro for rehearing or clarification of Order No. 391-B is dismissed without prejudice.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-2579 Filed 2-9-88; 8:45 am]

BILLING CODE 6717-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

706 Agencies

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule; amendment.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations on certified designated 706 agencies. Publication of this amendment effectuates the designation of the New Hanover Human Relations Commission as a certified 706 agency.

EFFECTIVE DATE: February 10, 1988.

FOR FURTHER INFORMATION CONTACT: Valentina Jackson, Equal Employment Opportunity Commission, Office of Program Operations, Systemic Investigations and Individual Compliance Programs, 2401 E Street, NW., Washington, DC 20507, telephone number (202) 634-6806.

SUPPLEMENTARY INFORMATION: The Commission has determined that the New Hanover Human Relations Commission meets the eligibility criteria for certification of designated 706 Agencies as established in 29 CFR 1601.75(b). In accordance with 29 CFR 1601.75(c) the Commission hereby amends the list of certified designated 706 agencies to include: New Hanover Human Relations Commission.

Publication of this amendment to § 1601.80 effectuates the designation of the following agency as a certified 706 agency: New Hanover Human Relations Commission.

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

PART 1601—[AMENDED]

Accordingly, 29 CFR Part 1601 is amended as follows:

1. The authority citation for Part 1601 continues to read as follows:

Authority: 42 U.S.C. 2000e to 2000e-17.

§ 1601.80 [Amended]

2. Section 1601.80 is amended by adding the New Hanover Human Relations Commission in alphabetical order.

Signed at Washington, DC, this 29th day of January, 1988.

James H. Troy,

Director, Office of Program Operations.

[FR Doc. 88-2746 Filed 2-9-88; 8:45 am]

BILLING CODE 6570-06-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL-3320-2]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Alternative RACT for Kenyon Industries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. This revision provides an alternative reasonably available control technology (RACT) determination for control of volatile organic compound (VOC) emissions from twelve fabric coating stations at Kenyon Industries, Incorporated (formerly Kenyon Piece Dyeworks) in Kenyon, Rhode Island. The revision involves an alternative RACT emission limit for the twelve fabric coating stations. Additionally, the revision requires the installation of add-on control equipment on the coating stations subject to the alternative RACT limit. This has been determined to represent RACT for Kenyon Industries (Kenyon) by EPA. The intended effect of this action is to approve this alternative RACT determination because Kenyon has demonstrated that it is economically infeasible to control its VOC emissions to the level required in the Rhode Island's federally-approved SIP for its source category.

This action is being taken in accordance with section 110 of the Clean Air Act.

EFFECTIVE DATE: This action will become effective on April 11, 1988, unless notice is received by March 11, 1988, that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the JFK Federal Building, Room 2313, Boston, MA 02203; Public Information Reference Unit, EPA Library, 401 M Street, SW., Washington, DC. 20460; and the Air and Hazardous Materials Division, Department of Environmental Management, 75 Davis Street, Cannon Building, Room 204, Providence, RI 02908.

FOR FURTHER INFORMATION CONTACT: David B. Conroy, (617) 565-3252, FTS 835-3252; or Robert C. Judge, (617) 565-3248, FTS 835-3248.

SUPPLEMENTARY INFORMATION: On January 16, 1987 (52 FR 1935), EPA published a Notice of Proposed Rulemaking (NPR) to approve an administrative consent agreement between the Rhode Island Department of Environmental Management (DEM) and Kenyon. The version of the consent agreement proposed for approval in the NPR was submitted as a revision to Rhode Island's SIP on November 5, 1985 and May 19, 1986. Rhode Island submitted additional information regarding that consent agreement on February 21, 1986. On April 15, 1987, the DEM formally submitted a revised version of the consent agreement to EPA for approval as the alternative RACT determination for Kenyon. This revised consent agreement has been determined to be at least as stringent as the original version proposed for approval by EPA. This final rulemaking notice (FRN) approves the revised version of the consent agreement and incorporates it by reference into the Rhode Island SIP.

This consent agreement was issued pursuant to provisions found in Rhode Island Regulation No. 19, subsection 19.3.3. Rhode Island Regulation No. 19, "Control of Volatile Organic Compounds from Surface Coating Operations," was approved and incorporated in Rhode Island's SIP on July 6, 1983 (48 FR 31026) as part of Rhode Island's Ozone Attainment Plan. This regulation applies to facilities which emit more than 100 tons per year (TPY) of VOC emissions from either paper, fabric, or vinyl surface coating operations. A source subject to this regulation is required under subsection 19.3.1 to apply reasonably available control technology (RACT) to its VOC emitting processes. The RACT limitations specified in subsection 19.3.1 are equivalent to those specified in EPA's applicable CTG document (EPA-450/2-77-008).

The provisions of subsection 19.3.3 allow the DEM to impose alternative compliance dates and emission limitations to those set forth in subsection 19.3.1, on a case-by-case basis, provided that certain conditions are met. The process is commonly referred to as making an alternative RACT determination. In order to qualify for an alternative RACT determination under subsection 19.3.3, a source must document at least 18 months prior to the final compliance date set forth in subsection 19.3.1 that the applicable emission limitations cannot be met. This documentation involves demonstrating both economically and technologically that neither coating reformulation nor the installation of a control system is feasible or even partially feasible.

EPA approved the provisions of subsection 19.3.3 for approval for alternative RACT determinations on July 6, 1983 (48 FR 31026) as part of Rhode Island's Ozone Attainment Plan. It was EPA's intention when approving subsection 19.3.3 that all alternative compliance dates and emission limitation relaxations granted pursuant to this subsection by the DEM would be submitted to EPA as SIP revisions.

Summary of the Alternative RACT Determination

Kenyon operates fifteen fabric coating stations: thirteen existing stations and two new stations. At the time this SIP revision was first submitted, the VOC emissions from one of the existing stations were controlled with add-on control equipment, the twelve other existing stations were uncontrolled, and the two new stations installed in 1981 were controlled to meet the Lowest Achievable Emission Rate (LAER) requirements of Rhode Island's approved new source review regulations.

Kenyon coats fabrics which are used in a variety of products such as clothing and outdoor equipment. Due to the nature of the substrates coated, Kenyon's existing coating stations are subject to Rhode Island SIP Regulation No. 19, subsection 19.3.1 which requires that the VOC content of each coating employed at Kenyon be at or below 2.9 pounds VOC/gallon of coating (minus water) by July 1, 1985.

Pursuant to the provisions of subsection 19.3.3 for alternative RACT determinations, the Rhode Island DEM has submitted a SIP revision which defines RACT for Kenyon. The consent agreement requires Kenyon to maintain an emission limitation of 5.4 pounds VOC/gallon of coating (minus water) on its twelve uncontrolled fabric coating lines by June 30, 1985. As an additional RACT requirement, the consent agreement requires Kenyon to install add-on control equipment on four of its fabric coating stations by December 31, 1986. These four stations are required to meet the SIP limit of 2.9 pounds VOC/gallon of coating (minus water) on a solids-applied basis.

EPA's review of extensive economic/financial information submitted by Kenyon has indicated that it was economically infeasible for Kenyon to control its VOC emissions by July 1, 1985 to the level set forth in subsection 19.3.1 of Rhode Island's fabric coating regulation. Rather, EPA believes that the emission limit of 5.4 pounds VOC/gallon of coating (minus water) for those twelve uncontrolled stations and the requirement for the application of add-on controls by December 31, 1986 on four of those twelve coating stations subject to the 5.4 pounds VOC/gallon of coating (minus water) emission limitation as specified in the consent agreement constitute the application of RACT for Kenyon as expeditiously as possible.

As further rationale for this action, it should be noted that Rhode Island has demonstrated that it has achieved sufficient VOC reductions necessary to show attainment of the National Ambient Air Quality Standard (NAAQS) for ozone by December 31, 1982 in accordance with its approved plan. (However, the entire State of Rhode Island is still nonattainment due to transport of ozone from upwind sources into Rhode Island). Therefore, this variance for Kenyon will not interfere with "reasonable further progress" (RFP) toward attainment of the ozone standard in Rhode Island as called for in the approved plan. Additionally, Rhode Island has determined there is an adequate margin for growth, below the level of emissions necessary to show attainment of the NAAQS for ozone, to absorb the increased emissions resulting from this alternative RACT. Each year Rhode Island recalculates that growth margin based on updated emission figures for all existing sources and emissions from new sources. Rhode Island only allows increases in VOC emissions from it's sources based on the availability of emissions in that growth margin.

Additional Provisions of the Consent Agreement

The revised consent agreement also contains a schedule which requires Kenyon to install add-on controls on the remaining eight coating stations which are subject to the emission rate of 5.4 pounds VOC/gallon of coating (minus water). The schedule is more stringent than the schedule for the installation of add-on controls contained in the original version of the consent agreement proposed for approval and described in the NPR. As such, implementation of the revised consent agreement will result in more rapid reduction of VOC emissions. This schedule is based on an updated analysis conducted by the DEM of Kenyon's financial records which determined when Kenyon will have the funds available to make the necessary capital expenditures to purchase and install add-on control equipment.

The DEM has renegotiated the schedule to install add-on control equipment with Kenyon pursuant to the provisions of subsection 19.3.3(a)(2)c which require any facility that has been granted an alternative RACT to undergo another RACT review every two years until the final emission limitation of Regulation No. 19 is achieved.

The revised consent agreement requires Kenyon to install add-on control equipment on the eight remaining coating stations which are limited to VOC emissions of 5.4 pounds VOC/gallon of coating (minus water) in two phases. First, Kenyon is required to install add-on controls on four uncontrolled stations (Line KK-4) by December 31, 1987. Secondly, Kenyon is required to install add-on control equipment on the remaining four uncontrolled stations (two on Line KK-1, one on Line KK-2, and one on Line KK-3) by July 1, 1988. After July 1, 1988, all lines will be controlled to the regulatory emission limitation of 2.9 pounds VOC/gallon of coating (minus water) and the alternative RACT will no longer apply.

Another difference between the revised consent agreement and the

original consent agreement proposed for EPA approval is that the order in which Line KK–5 and Line KK–4 must be controlled has been switched. EPA has determined that the control of Line KK–5 first, as required by the revised consent agreement, will result in lower VOC emissions more rapidly than if Line KK–4 has been controlled first, as proposed in the original consent agreement. Because uncontrolled emissions from Line KK–5 are greater than uncontrolled emissions from Line KK–4, control of Line KK–5 to the regulatory emission limit will achieve actual reductions more rapidly.

EPA has determined that, in all cases, and at all times, the requirements of the new consent agreement are at least as stringent as the old consent agreement which EPA proposed to approve as alternative RACT determination for Kenyon. In addition, it should be emphasized that these additional provisions are beyond what EPA has determined RACT is for Kenyon. RACT requirements for Kenyon were met on December 31, 1986. The State of Rhode Island has requested that EPA approve these additional provisions of the consent agreement in order to make them federally enforceable.

EPA is approving these provisions. The State of Rhode Island and Kenyon have agreed that these requirements can be met by the dates specified. Therefore, EPA believes that they reflect the application of RACT as expeditiously as practicable. No public comments were received on the NPR.

A notice of proposed rulemaking has already been published on this revision. However, because the consent agreement being approved by this final rulemaking was revised since that notice of proposed rulemaking, we are allowing the opportunity for public comment. The version of the consent agreement we are approving today is more stringent than the proposed version. If notice is received within thirty days that adverse or critical comments will be submitted on the differences between the original consent agreement and the revised consent agreement, I will withdraw this action and publish another Notice of Proposed Rulemaking.

Final Action

EPA is approving the administrative consent agreement for Kenyon Industries in Kenyon, Rhode Island submitted as a SIP revision by the DEM on April 15, 1987 and an addendum to that submittal dated May 14, 1987.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 11, 1988. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the State of Rhode Island was approved by the Director of the Federal Register on July 1, 1982.

Dated: January 19, 1988.

Lee M. Thomas,

Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart 00—Rhode Island

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.2070 is amended by adding paragraph (c)(29) to read as follows:

§ 52.2070 Identification of plan.

* * * * *

(c) * * *

(29) Revisions submitted on November 5, 1985, February 21, 1986, April 15, 1987 and May 14, 1987 by the Rhode Island Department of Environmental Management consisting of an administrative consent agreement defining alternative reasonably available control technology for Kenyon Industries in Kenyon, Rhode Island.

(i) *Incorporate by reference.* (A) Letter from the State of Rhode Island and Providence Plantations dated April 15, 1987 submitting revisions for Kenyon Industries to the Rhode Island State Implementation Plan.

(B) An administrative consent agreement between the State of Rhode Island and Providence Plantations Department of Environmental Management and Kenyon Industries, Inc., signed on December 31, 1986.

(ii) *Additional material.* (A) A letter dated May 14, 1987 from the Department of Environmental Management containing technical support demonstrating that the revised consent agreement is at least as stringent as the consent agreement between the Rhode Island Department of Environmental Management and Kenyon effective in Rhode Island May 13, 1985.

(B) Original consent agreement between the Rhode Island Department of Environmental Management and Kenyon effective on May 13, 1985 submitted to EPA on November 5, 1985.

(C) Letter dated February 21, 1986 from Rhode Island describing required recordkeeping for Kenyon.

§ 52.2081 [Amended]

3. Section 52.2081 is amended by adding the following entry at the end of No. 19 in the Table of EPA Approved Regulations (in the chart below, the date approved by EPA and the **Federal Register** citation will be the publication dates and citation of the notice).

TABLE 52.2081—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date adopted by State	Date approved by EPA	Federal Register citation	52.2070	Comments/unapproved sections
•	•	•	•	•	•	•
No. 19	Control of VOC's from surface coating operations.	12/31/86	2/10/87	52 FR	(c)(29)	Alternative RACT for Kenyon Industries under 19.3.3
•	•	•	•	•	•	•

FR Doc. 88–1501 Filed 2–9–88; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Parts 60 and 61

[FRL-3326-3]

Delegation of Authority to the State of New Mexico for New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation of authority.

SUMMARY: The Environmental Protection Agency (EPA) announces the delegation of full authority to the State of New Mexico to implement and enforce additional source categories of the New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) including the subsequent revisions and amendments to the standards for which full authority had been delegated to the State by the previous delegation agreement of March 15, 1985. Based on the State's request of September 3, 1987, the EPA has now granted full authority to the State for the NSPS and NESHAP through February 19, 1987, and October 6, 1986, respectively, applicable only in certain areas of the State.

This delegation of authority does not apply to the sources located in Bernalillo County, New Mexico, or to the sources located on Indian reservations as specified in the delegation agreement and in this notice. This delegation of authority is not applicable to the NESHAP radionuclide standards specified under 40 CFR Part 61.

EFFECTIVE DATE: February 2, 1988.

ADDRESSES: The State's request and delegation agreement may be requested by writing to one of the following addresses:

Chief, SIP New Source Section (6T-AN), Air Programs Branch, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202-2733, Telephone: (214) 655-7214.

Chief, Air Quality Bureau, New Mexico Environmental Improvement Division, P.O. Box 968, Santa Fe, New Mexico 87504-0968, Telephone: (505) 827-0020.

All other requests, reports, applications and such other communications which are required to be submitted under 40 CFR Part 60 and 40 CFR Part 61 (including the notifications required under Subpart A of the regulations) for the affected facilities, in areas outside of Indian reservations or Bernalillo County, should be sent directly to the State of New Mexico at the above address. Sources located on Indian reservations or in Bernalillo County, should submit the information specified above to the EPA Region 6 Office at the address given in this notice.

FOR FURTHER INFORMATION CONTACT: Mr. J. Behnam, P.E., SIP New Source Section, Air Programs Branch, United States Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone number (214) 655-7214.

SUPPLEMENTARY INFORMATION: Sections 111(c) and 112(d) of the Clean Air Act allows the Administrator of the EPA to delegate EPA's authority to any State which can submit adequate regulatory procedures for implementation and enforcement of the NSPS and NESHAP programs.

On October 19, 1984, New Mexico requested full delegation of authority for the implementation and enforcement of NSPS through March 14, 1984, and NESHAP through December 9, 1983. The State also requested partial delegation of authority for the technical and administrative review of new or amended NSPS and NESHAP in the October 19, 1984 letter. The delegation request was granted to the State subject to the conditions and limitations specified in the delegation agreement which was approved on March 15, 1985. The March 15, 1985, delegation agreement provided full authority for the State to implement and enforce the NSPS and NESHAP through March 14, 1984, and December 9, 1983, respectively. Also, the State received partial authority for implementation of NSPS and NESHAP subparts effective after the specified dates in the State regulations and for amendments of fully delegated NSPS and NESHAP subparts after the dates specified above. The State's authority was approved only for the areas outside of Indian reservations and Bernalillo County.

On September 3, 1987, the NMEID requested the EPA to grant full authority for additional source categories and amendments to the fully delegated NSPS and NESHAP subparts by extending the coverage dates through February 19, 1987, and October 3, 1986, for the NSPS and NESHAP, respectively. Based on review of State's Air Quality Control Regulations (AQCR) 750 (for NSPS) and 751 (for NESHAP), the EPA delegated full authority to the State as requested in the letter of September 3, 1987. AQCRs 750 and 751 incorporate the Federal NSPS and NESHAP by reference through the dates specified above. The provisions and conditions specified in the March 15, 1985, delegation agreement shall remain unchanged and effective except the revision of the appropriate dates as cited above. The revised authorized dates have been listed in Table 1 for NSPS and Table 2 for NESHAP. These tables noting the revised effective dates have been approved by the Regional Administrator, and are thereby incorporated as part of the March 15, 1985 delegation agreement. This delegation of authority is not applicable to the NESHAP radionuclide standards specified under 40 CFR Part 61.

Today's notice informs the public that the EPA has expanded the State's full authority to implement and enforce the NSPS through February 19, 1987, and the NESHAP through October 3, 1986. All reports required pursuant to the Federal NSPS and NESHAP (40 CFR Part 60 and 40 CFR Part 61) by sources located in the State of New Mexico, in areas outside of Indian reservations or Bernalillo County, should be submitted directly to the New Mexico Health and Environment Department, Environmental Improvement Division, Air Quality Bureau, P.O. Box 968, Santa Fe, New Mexico, 87504-0968. Sources located on Indian reservations or in Bernalillo County, should apply to the EPA Region 6 Office at the address given in this notice.

The Office of Management and Budget has exempted this information notice from the requirements of section 3 of Executive Order 12291.

This delegation is issued under the authority of sections 111(c) and 112(d) of the Clean Air Act, as amended (42 U.S.C. 7411(c) and 7412(d)).

List of Subjects

40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Cement industry, Coal, Copper, Electric power plants, Fossil-fuel fired steam generators, Glass and glass products, Grain, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Fertilizer, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc.

40 CFR Part 61

Air pollution control, Asbestos, Benzene, Beryllium, Hazardous materials, Mercury, Vinyl chloride.

Date: February 2, 1988.

Robert E. Layton Jr.,

Regional Administrator.

FR Doc. 88-2803 Filed 2-9-88; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 85

[AMS-FRL-3325-5]

New Nonconforming Imported Vehicle Program; Public Workshop

AGENCY: Environmental Protection Agency.

ACTION: Notice of public workshop.

SUMMARY: On March 23, 1988, the U.S. Environmental Protection Agency (EPA) will hold a public workshop to discuss recent amendments to existing regulations concerning nonconforming imported motor vehicles and motor vehicle engines. 52 FR 36136 (September 25, 1987). In addition to a discussion of recent changes in the nonconforming imported vehicle regulations, a presentation outlining the small volume certification process will be made. Any questions regarding the new imports regulations or the existing small volume certification process will be discussed.

DATES: The workshop will commence at 10:30 a.m. and end by 5:00 p.m. on March 23, 1988.

Persons desiring to have specific areas of interest addressed at the workshop should notify one of the EPA contacts listed below at least two weeks prior to the workshop.

ADDRESSES: The workshop will be held at the EPA Motor Vehicle Emission Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105 (313-668-4200).

Materials relevant to the imports rulemaking are contained in Public Docket No. EN-79-9. The docket is located in the U.S. Environmental Protection Agency, Central Docket Section (LE-131), Room 4, South Conference Center, Waterside Mall, 401 M Street SW., Washington, DC 20460. The docket may be reviewed weekdays between 8:00 a.m. and 3:00 p.m. As provided for in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mary T. Smith, Chief, Manufacturers Programs Branch (202-382-2500) or Claude Magnuson, Chief, Investigation/Imports Section (202-382-2542), Manufacturers Operations Division (EN-340F), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Persons desiring information prior to the workshop concerning the small volume certification process should contact Mr. Bernard Patok (313-668-4283), Certification Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan. 48105.

SUPPLEMENTARY INFORMATION: Section 203 of the Clean Air Act prohibits the importation of any new motor vehicle or engine (hereinafter "vehicle") not covered by a certificate of conformity unless it is exempted by the Administrator or otherwise authorized jointly by EPA and U.S. Customs Service (Customs) regulations, 42 U.S.C. 7522. Such regulations must be appropriate to ensure that imported nonconforming vehicles will be brought into conformity with applicable emission standards. The authority to allow importation of nonconforming vehicles is discretionary with EPA and Customs.

The regulatory framework of EPA's current program, contained in EPA regulations at 40 CFR 85.1501 *et seq.* and in Customs regulations at 19 CFR 12.73, generally permit the conditional importation of a nonconforming vehicle, for 90 days, by any person provided that a bond is posted with Customs and the vehicle is brought into conformity with EPA emission requirements, 40 CFR 85.1504. Currently, this may be done by either modifying the vehicle to make it identical to a vehicle certified for sale in the U.S. or by successfully testing the vehicle in accordance with the Federal Test Procedure (FTP) at 40 CFR Part 86. Under the second option (the "modification and testing" approach), which has been more commonly used, some modification is usually necessary before the imported vehicle will pass the FTP (the "modification and testing" approach).

Currently, certain exceptions to emissions compliance are recognized by EPA. Of particular note is the enforcement policy for vehicles five model years and older which permits a first-time individual importer to import one nonconforming vehicle at least five model years old for personal use without demonstrating emissions compliance.

On September 25, 1987, EPA published amendments to the existing imports regulations which provides for a substantially new program which would be phased-in between July 1, 1988 and 1993. More specifically, these amendments provide, with some limited exceptions, that as of July 1, 1988, only independent commercial importers (ICIs) [1] who are certificate holders may import nonconforming vehicles. This program also places other restrictions on imported nonconforming vehicles. In particular, by the end of the phase-in period, it permits nonconforming vehicles less than six original production (OP) years old [2] to be conditionally admitted without bond only if they are subsequently modified and tested, if applicable, so as to be covered by a certificate of conformity. During the phase-in period, some vehicles less than six OP years old may be imported under a more stringent "modification and test" procedure than that existing under the present program. However, the number of such vehicles that may be "modified/tested" decreases each year of the phase-in period until 1993 when all vehicles less than six OP years old (with few exceptions) must be imported under the new certification-based program by certificate holders. The new program also allows, beginning on July 1, 1988, nonconforming vehicles six OP years old and older to be imported, also without bond, under the new "modification/test" procedures. Finally, the new program establishes an exemption from emission requirements for vehicles greater than twenty OP years old.

Certain aspects of the current imports program—including bonded importations by persons other than certificate holders, the current

[1] The term "independent commerical importer" as used here means an importer who does not have contractual agreement with an original equipment manufacturer (OEM) to act as its authorized representative for the distribution of motor vehicles into the U.S. market.

[2] Original production years old is determined by subtracting the original production year of a vehicle from the calendar year of importation.

"modification and test" procedure and the "five model year old personal use" exception—were abolished by the new regulations, effective July 1, 1988, while other parts of the current program (involving exemptions and exclusions and catalyst replacement program) were retained with certain changes.

To provide a forum through which information may be exchanged and questions asked about the new imports program and the certification process, EPA will hold a workshop regarding the new regulations. The following list constitutes a preliminary agenda for the workshop:

1. Overview of the requirements of the new imports program.
2. Overview of the requirements of the certification process, including the fuel economy program and Advisory Circular 51C on assigned deterioration factors.
3. Status of other regulatory actions (e.g., Customs regulations) which may affect the new imports program.
4. Discussion of new entry form and final admission form.
5. Discussion of coverage of previously and subsequently issued certificates of conformity.
6. Discussion of the elimination of laboratory recognition program, possible correlation programs with EPA and assurance of quality test data.
7. Federal requirements for California vehicles.
8. Topics to be addressed in possible future advisory letters.
9. Questions from participants.
10. Tour of EPA Ann Arbor facility.

Comments on additional issues for discussion are encouraged and should be provided to the EPA contacts noted above by March 9, 1988.

Dated: February 3, 1988.

J. Craig Potter,

Assistant Administrator for Air and Radiation.

[FR Doc. 88-2692 Filed 2-9-88; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 86

[FRL-3325-6; Docket No. EN-88-01]

Selection of Non-Domestically Produced Vehicles at the Ports of Entry for Selective Enforcement Auditing Emissions Testing at Laboratories in the United States; Public Workshop

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public workshop.

SUMMARY: On April 21, 1988, EPA will hold a public workshop to discuss issues associated with the selection of non-domestically produced vehicles at the ports of entry for Selective Enforcement Auditing (SEA) emissions testing at laboratories in the United States (U.S.).

DATE: The workshop will be convened at 9:00 a.m., Thursday, April 21, 1988, and will reconvene if needed at 9:00 a.m., Friday, April 22, 1988. Sessions will be adjourned at 5:00 p.m. each day or at a later time if necessary to complete the business of the workshop.

Requests to make presentations should be submitted to the contacts listed below by Monday, March 21, 1988. Five copies of the proposed presentation should be submitted to EPA at the beginning of the workshop on April 21, 1988.

The record of the workshop will be left open for 30 working days following the close of the workshop for subsequent written submissions and thus will close on Friday, June 3, 1988.

ADDRESS: The workshop will be held in South Conference Room 2 at the EPA Headquarters at Waterside Mall, 401 M Street SW., Washington, DC 20460. Copies of materials relevant to this workshop are contained in Public Docket No. EN-88-01 at the Central Docket Section of the U.S. Environmental Protection Agency, Room 4, South Conference Center (LE-131), Waterside Mall, 401 M Street, SW., Washington, DC 20460, and are available for public inspection between 8:00 a.m. and 3:00 p.m., Monday through Friday. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Stephen G. Sinkez or Sean P. Conley, U.S. Environmental Protection Agency, Manufacturers Operations Division (EN-340-F), 401 M Street, SW., Washington, DC 20460. Phone (202-382-4104).

SUPPLEMENTARY INFORMATION: Since the beginning of the SEA program in the 1977 model year, EPA has typically issued test orders specifying the selection of non-domestically produced vehicles at the overseas assembly plants where they are produced. In these cases, SEA emissions testing was then conducted at the manufacturers' laboratories overseas. On one occasion in 1980, EPA issued a test order to a U.S.-based manufacturer specifying the selection of its non-domestically produced vehicles at the port of entry. The vehicles were then shipped to the manufacturer's U.S. test facility for emissions testing.

To provide EPA with greater flexibility to conduct audits of non-domestically produced vehicles, EPA is considering the possibility of issuing some test orders for selections of non-domestically produced vehicles at the ports of entry for SEA emissions testing at laboratories in the U.S. By letter of July 7, 1987, EPA solicited comments regarding issues associated with port selections from several manufacturers and the Automobile Importers of America. Comments which were received are contained in the public docket noted above. The comments received raised several issues associated with port selections: (1) The availability of emissions laboratories in the U.S., (2) the costs of selecting, shipping and testing SEA vehicles in the U.S. and the potential for inequitable treatment of foreign manufacturers, (3) the availability of vehicles for selection at the ports, (4) the possibility of deteriorated conditions of the vehicles after shipment and potential requests for special maintenance before testing, (5) the problems associated with the diagnosis and disposition of failing vehicles after the SEA is over, and (6) the question of current regulatory authority to order selection and testing in the U.S.

Because of the number and complexity of these issues and the request of several manufacturers to have a forum to further discuss these issues, EPA has decided to hold a public workshop. EPA is also interested in information regarding how much lead time would be required by manufacturers to prepare for port selections and U.S. testing. EPA encourages all potential participants to present and discuss factual information and data on these subject areas at the workshop.

Comments on any additional items that participants would like to discuss at the workshop should be provided to the EPA contacts noted above by March 14, 1988. An agenda for this workshop will be placed in the public docket by Monday, April 4, 1988.

Dated: February 3, 1988.

J. Craig Potter,

Assistant Administrator for Air and Radiation.

[FR Doc. 88-2691 Filed 2-9-88; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 271

[FRL-3325-8]

North Carolina; Order To Commence Proceedings To Determine To Withdraw Hazardous Waste Program Approval; Correction of Date and Location of Hearing

AGENCY: Environmental Protection Agency.

ACTION: Notice of correction of hearing date and location.

SUMMARY: This notice corrects the date and location previously published in the Federal Register (52 FR 43903) on November 17, 1987, establishing the dates and location for the North Carolina withdrawal proceeding hearing. The hearing will be held on June 29–30—July 1, 1988, at the Jane S. McKimmon Center, North Carolina State University, Raleigh, NC.

FOR FURTHER INFORMATION CONTACT: Otis Johnson Jr. at (404) 347–3016.

Dated: February 2, 1988.

Joe R. Franzmathes,

Acting Regional Administrator.

[FR Doc. 88–2689 Filed 2–9–88; 8.45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[General Docket No. 87–107; FCC 88–27]

Input Selector Switches Used In Conjunction with Cable Television Service

AGENCY: Federal Communications Commission.

ACTION: Final rule, stay of effective date.

SUMMARY: The action taken herein stays the effective date of the input selector switch isolation requirements and the marketing cut-off cycle for those switches scheduled to go into effect on January 28, 1988. See 52 FR 45961, December 3, 1987.

EFFECTIVE DATE: February 10, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Scott Roberts, Mass Media Bureau (202) 632–6302.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order* in Docket 87–107, adopted January 27, 1988, and released January 28, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3000, 2100 M Street, Northwest, Suite 140, Washington, DC 20037.

Summary of the Order

1. By this Order, we are staying the implementation of our recently adopted technical standards for input selector switches used to alternate between over-the-air television service and cable television service pending resolution of requests for reconsideration in this proceeding. This action is in response to a Request for Stay filed by the Consumer Electronics Group of the Electronic Industries Association (EIA) on December 18, 1987 in conjunction with a Petition for Reconsideration it filed on that same date addressing the transition procedures of the new rules.

2. In its Petition for Reconsideration, the EIA states that the above implementation plan imposes substantial, unnecessary, and unintended burdens associated with the redesign and marketing of switches on manufacturers of TV receivers and switching accessories. We find that the concerns expressed by the EIA and Zenith for disruption of equipment manufacturing and supply activities merit careful examination in the context of reconsideration. We also are persuaded that continued adherence to the transition procedures previously adopted pending resolution of EIA's request for reconsideration could produce uncertainty that might be significantly disruptive to manufacturers, suppliers and retailers involved in the marketing of broadcast/cable switching equipment.

3. Accordingly, it is ordered that the Request for Stay filed by the Consumer Electronics Group of the Electronic Industries Association is granted. Sections 15.64, 15.606, 15.616 and 15.622 of the Commission's rules are stayed pending further action by the Commission. This stay does not apply to other actions adopted in the *Report and Order* in GEN. Docket No. 87–107. See also *Order* (FCC 87–396, released December 23, 1987) staying other portions of GEN. Docket 87–107 and published at 53 FR 3212, February 4, 1988. Authority for this action is provided in Sections 4(i) and 303 of the Communications Act of 1934, as amended.

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88–2656 Filed 2–9–88; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 14

Humane and Healthful Transport of Wild Mammals and Birds to the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; delay of effective date with request for comments.

SUMMARY: On November 10, 1987, the United States Fish and Wildlife Service (hereinafter the Service) published the final rule on humane and healthful transport of wild mammals and birds to the United States (52 FR 43274), implementing section 9 of the Lacey Act. This rule was to become effective February 8, 1988, 90 days after the date of publication. However, the Service is concerned that any confusion or misinterpretation of this rule could lead to adoption of shipping practices which might harm the wildlife being transported or unduely impose economic hardship on the industry. Therefore, the Service is postponing the effective date of the rule until August 1, 1988, to ensure that persons involved in the shipment of wildlife have a clearer understanding of the rule. The Service is also providing a 30-day public comment period so that it can receive any additional information which will help it to clarify the intent and effects of the rule.

DATES: This rule is effective February 8, 1988; comments must be received on or before March 11, 1988.

ADDRESSES: Comments may be mailed to the Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 27329, Central Station, Washington, DC 20038–7329. Comments received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday at the Office of Management Authority, 400 Hamilton Building, 1375 K Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Marshall P. Jones, Acting Chief, Office of Management Authority, at the above address, telephone (202) 343–4968.

The Assistant Secretary for Fish and Wildlife and Parks under Pub. L. 97–79; 95 Stat. 73 is delaying the effective date of the regulations published in the

Federal Register of November 10, 1987 (52 FR 43274) until August 1, 1988.

Dated: February 4, 1988.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88-2748 Filed 2-8-88; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 53, No. 27
Wednesday, February 10, 1988

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 300

[Docket No. 87-162]

Incorporation by Reference; Plant Protection and Quarantine Treatment Manual

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the Plant Protection and Quarantine regulations to give notice that we are revising the Plant Protection and Quarantine Treatment Manual (PPQ Treatment Manual) to include a hot water dip as an acceptable treatment for mangoes from Mexico, except mangoes from the State of Chiapas. The PPQ Treatment Manual is incorporated by reference in the regulations at 7 CFR 300.1.

DATE: Consideration will be given only to comments postmarked or received on or before March 11, 1988.

ADDRESSES: Send an original and 2 copies of written comments to Steven B. Farbman, Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Rd., Hyattsville, Md. 20782. Specifically refer to Docket No. 87-162. You may review these comments at Room 728 of the Federal Building, 8:00 am to 4:30 pm, Monday-Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: E. Elliott Crooks, Operations Officer, Port Operations Staff, PPQ, APHIS, USDA, Room 601, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8249.

SUPPLEMENTARY INFORMATION:

Background

Chapter III of Title 7, Code of Federal Regulations (regulations), contains the regulations of Plant Protection and Quarantine (PPQ) of the Animal and Plant Health Inspection Service. Section 300.1 of the regulations incorporates by reference the Plant Protection and Quarantine Treatment Manual (PPQ Treatment Manual). The PPQ Treatment Manual contains procedures and schedules for treating various regulated articles so that these articles may move into or within the United States and not present a plant pest risk.

Mangoes from Mexico must be treated for two species of fruit flies, *Anastrepha obliqua* and *A. ludens*, before being imported into the United States. However, there are no available treatments now in the PPQ Treatment Manual for importing Mexican mangoes.

Recent research indicates that treating Mexican mangoes with a hot water dip destroys *A. ludens* and *A. obliqua*.

We would update the PPQ Treatment Manual to include this hot water dip treatment, since this is the only treatment effective for Mexican mangoes. If this treatment is available, Mexican mangoes could be imported into the United States. Therefore, we propose to amend § 300.1 of the regulations to show that the PPQ Treatment Manual, which is incorporated by reference and on file at the Office of the Federal Register, is being revised to include a hot water dip as an acceptable treatment for mangoes from Mexico, with one exception; we are not including mangoes from the State of Chiapas because Mediterranean fruit fly *Ceratitis capitata* occurs there and hot water dip has not been proven effective in destroying this fruit fly. There are no other treatments available that will destroy Mediterranean fruit fly without damaging mangoes.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this proposed rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Most mangoes consumed in the United States are imported. Historically, about 65 percent of the mangoes consumed annually have come from Mexico. Haiti provides about 11 percent, and 4 percent come from other countries. Domestic production is limited to 2,100 acres in Florida. In fiscal year 1986, this area produced about 20 million pounds of the fruit, approximately 20 percent of the mangoes consumed in the United States. Beause of the growing conditions necessary for mangoes, we do not expect U.S. production of mangoes to increase. Most of our supply will continue to come from foreign sources, if not from Mexico, then from other countries. We also do not anticipate that adoption of the proposed rule will result in any decrease in the demand for Florida mangoes, which have a well-established market.

Under these circumstances, the Acting Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 7 CFR Part 300

Incorporation by reference, Plant diseases, Plant pests.

Accordingly, Title 7, Chapter III would be amended as follows:

PART 300—INCORPORATION BY REFERENCE

1. The authority citation for Part 300 would continue to read as follows:

Authority: 7 U.S.C. 150ee, 161.

2. Section 300.1, paragraph (a) would be revised to read as follows:

§ 300.1 Materials incorporated by reference.

(a) The Plant Protection and Quarantine Treatment Manual, which was reprinted May 1985, and includes all revisions issued through December 1987, has been approved for incorporation by reference in 7 CFR Chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51.

* * * * *

Done in Washington, DC this 5th day of February, 1988.

James W. Glosser,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88-2835 Filed 2-9-88; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 635

[FHWA Docket No. 87-15, Notice No. 2]

Construction and Maintenance; Contract Procedures; Standardized Contract Clauses; Extension of Comment Period

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The FHWA issued a notice of proposed rulemaking (FHWA Docket No. 87-15, 52 FR 45645, December 1, 1987, FR Doc. 87-27521) which proposed to revise its regulations on contract procedures to implement the provision mandated by section 111(c) of the Surface Transportation and Uniform Relocation Assistance Act (STURAA) of 1987 [23 U.S.C. 112, amended]. Certain standardized contract clauses are now required in all Federal-aid highway contracts unless otherwise provided for by State law. The standardized contract clauses will provide for the equitable adjustment of contract terms: (1) Where site conditions differ from those specified in the contract, (2) where work has been suspended by order of the contracting agency (other than a suspension of work caused by the fault of the contractor or by weather), and (3) where there are material changes in the scope of work specified in the contract. The comment period is being extended to March 1, 1988. This extension will provide additional time for the public to respond to the issues contained in the NPRM.

DATE: Comments must be received on or before March 1, 1988.

ADDRESS: Submit written, signed comments, preferably in triplicate, to the Federal Highway Administration, FHWA Docket No. 87-15, HCC-10, 400 Seventh Street SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. William A. Weseman, Chief, Construction and Maintenance Division, Office of Highway Operations, (202) 366-1548, or Mr. Wilbert Baccus, Office of Chief Counsel, (202) 366-1396, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

(23 U.S.C. 112, 315; 49 CFR 1.48(b))

Issued on: February 4, 1988.

Robert E. Farris,

Deputy Administrator, Federal Highway Administration.

[FR Doc. 88-2785 Filed 2-9-88; 8:45 am]

BILLING CODE 4910-22-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85-230, RM-4806, RM-4852, RM-4898, RM-5183, RM-5184]

Noncommercial Educational FM Broadcast Stations; Apple Valley, Palomar Mountain, Long Beach, Riverside and Thousand Oaks, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; withdrawal.

SUMMARY: This document dismisses four proposals for noncommercial educational FM allotments within 199 miles of the U.S.-Mexican border (50 FR 32869, August 15, 1985). During the pendency of this Docket, the Commission amended its Rules to provide for a "demand" system for noncommercial educational FM services in the border area. Consequently, these conflicting proposals need not be resolved in a rule making proceeding. In light of the new rules, these requests are properly dealt with in the application context. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Joel Rosenberg, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-230, adopted December 4, 1987, and released January 12, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

(47 U.S.C. 154, 303)

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-2655 Filed 2-9-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-13, RM-6110]

Radio Broadcasting Services; Paynesville, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Paynesville Broadcasting Company, requesting the allocation of FM Channel 255C2 to Paynesville, Minnesota, as that community's first FM broadcast service. The coordinates used for Channel 255C2 at Paynesville are 45-22-48/94-42-48.

DATES: Comments must be filed on or before March 24, 1988, and reply comments on or before April 8, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Richard J. Hayes, Jr., 1359 Black Meadow Road, Spotsylvania, Virginia 22553 (Counsel for the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88-13, adopted January 7, 1988, and released February 2, 1988. The full text of this Commission decision is available for inspection and copying during

normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-2739 Filed 2-9-88; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 88-16, RM-6109]

Radio Broadcasting Services; Waite Park, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Waite Park Broadcasting Company, requesting the allocation of FM Channel 279A to Waite Park, Minnesota, as that community's first FM broadcast service. The coordinates used for this proposal are 45-33-18/94-13-36.

DATES: Comments must be filed on or before March 24, 1988, and reply comments on or before April 8, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Richard J. Hayes, Jr., 1359 Black Meadow Road, Spotsylvania, Virginia 22553 (Counsel to the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88-16, adopted January 7, 1988, and released February 2, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-2737 Filed 2-9-88; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 88-12, RM-5951]

Radio Broadcasting Services; Pelican Rapids, MN and Milbank, SD

AGENCY: Federal Communications Commission.

ACTION: Proposed rule and Order to Show Cause.

SUMMARY: This document requests comments on a petition filed by Heart of the Lakes Radio, proposing the allotment of FM Channel 281C2 to Pelican Rapids, Minnesota, as that community's first FM broadcast service. To accommodate the allotment at Pelican Rapids, it would be necessary to substitute Channel 252C1 for Channel 282C1 at Milbank, South Dakota, Station KBEV-FM. It is also necessary to impose a site restriction on Channel 281C2 at Pelican Rapids, 7.6 kilometers south of the community (coordinates 46-30-00; 96-05-00). Canadian concurrence is necessary for the allotment of Channel 281C2 at Pelican Rapids since that community is within 320 kilometers of the common U.S.-Canadian border.

DATES: Comments must be filed on or before March 24, 1988, and reply comments on or before April 8, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Michael C. Steele, Heart of the Lakes Radio, Route 4, Box 30, Pelican Rapids, Minnesota 56572.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88-12 adopted January 7, 1988, and released February 2, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-2736 Filed 2-9-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-11, RM-6047]

Radio Broadcasting Services; Monticello, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Clinco, Inc., requesting the substitution of FM Channel 271C2 for Channel 271A at Monticello, Mississippi. There is a site restriction 8.7 kilometers northwest of the community. The site coordinates are 31-36-48/90-10-10. Channel 271A was allocated to Monticello in MM Docket 84-231, *First Report and Order*, 49 FR 3514, January 25, 1985. This channel is number 61 in the sequential order of the random selection in which the new FM allotments will be made available for application.

DATES: Comments must be filed on or before March 24, 1988, and reply comments on or before April 8, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Anne Thomas Paxson, Borsari & Paxson, 2100 M Street NW., Suite 610, Washington, DC 20037 (Counsel for the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88-11, adopted January 7, 1988, and released February 2, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contact are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-2738 Filed 2-9-88; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 88-14, RM-6099]

Radio Broadcasting Services; Batesville and Charleston, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed jointly by Batesville Broadcasting Company and Charleston Broadcasting Company, Inc. Batesville Broadcasting requests the substitution of FM Channel 263C2 for Channel 240A at Batesville, Mississippi, and modification of the license of FM Station WBLE to specify Channel 263C2. Charleston Broadcasting proposes the substitution of FM Channel 239A for 232A at Charleston, Mississippi and modification of the license of Station WTGY to specify operation on Channel 239A. The coordinates used for Batesville are 34-25-26/89-48-47 and for Charleston 33-58-43/90-06-47.

DATES: Comments must be filed on or before March 24, 1988, and reply comments on or before April 8, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Julian P. Freret, Booth, Freret & Imlay, 1920 N Street NW., Suite 520, Washington, DC 20036 (Counsel to the petitioners).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88-14, adopted January 7, 1988, and released February 2, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-2741 Filed 2-9-88; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 88-15, RM-6104]

Radio Broadcasting Services; Poplar Bluff, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by James M. Hunt, requesting the allocation of FM Channel 278C2 to Poplar Bluff, Missouri, as that community's fourth FM broadcast service. There is a site restriction 10.9 kilometers (6.8 miles) northeast of the community. The coordinates for the restricted site are 36-49-50/90-18-54.

DATES: Comments must be filed on or before March 24, 1988, and reply comments on or before April 8, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: John R. Wilner, Bryan, Cave, McPheeters & McRoberts, 1015—15th Street NW., Suite 1000, Washington, DC 20005 (Counsel for the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88-15, adopted January 7, 1988, and released February 2, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-2740 Filed 2-9-88; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 346 (Sub-24)]

Rail General Exemption Authority; Miscellaneous Manufactured Commodities

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking—exemption.

SUMMARY: Under its authority in 49 U.S.C. 10505, the Commission proposes to add to the list of exempt commodities identified in 49 CFR Part 1039, the transportation by rail of various manufactured commodities listed below. The purpose of this exemption is to remove regulation which is not necessary to carry out the transportation policy of Section 10101a of Title 49 U.S.C., and is no longer necessary to protect shippers from the abuse of market power by the railroads by virtue of the existence of sufficient actual and potential intermodal competition.

DATES: Comments by parties to this proceeding and interested persons must be filed with the Secretary of the Commission on or before March 28, 1988.

ADDRESS: An original and 10 copies, if possible, of each submission should be forwarded to: Ex Parte No. 346 (Sub-No. 24), Office of the Secretary, Case Control Branch—Room 1324, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Leland L. Gardner or Robert Lundy, Office of Transportation Analysis, Washington, DC 20423, (202) 275-0811 or 275-6853, (TDD Services for hearing impaired (202) 275-1721).

SUPPLEMENTARY INFORMATION: The following specific commodities proposed for exemption, identified by STCC number and embracing all products additional digits, will be added to the chart in 31039.11: Food and kindred products, (20) *except* lard, tallow and grease (20131, 20139, 2-143), canned specialities (2032), canned fruits, jams, jellies, preserves or vegetables (2033), grain mill products (204) sugar, beet or cane (206), beverages or flavoring extracts (208), cottonseed oil or by-products (2091), soybean oil or by-products (2092), and nut or vegetable oils or by-products (2093); textile mill products (22); apparel or other finished textile products (23); miscellaneous wood products (249) *except* treated wood products (2491); furniture or fixtures (25); pulp, paper or allied products (26) *except* pulp or pulp mill products (261), newsprint (26211), groundwood paper (26212), printing paper, coated or uncoated, etc. (26213), wrapping paper or coarse paper (26214), sanitary tissue stock (26218), sanitary tissue or health products (26471), and building paper or building board (266); printed matter (27); industrial gasses, compressed, liquified or solid (2813); inorganic pigments (2816); soap or other detergents, cleaning (284); paints, enamels, lacquers, shellacs or varnishes (285); miscellaneous chemical products (289) *except* chemicals or chemical preparations, nec (2899); petroleum or coal products (29) *except* miscellaneous petroleum and coal products (299); rubber or miscellaneous plastics products (30) *except* rubber pneumatic tires or parts (30111) and reclaimed rubber (303); leather or leather products (31); clay, concrete, glass or stone products (32); iron or steel sheet or strip (33123); electrometallurgical products (3313); steel wire, nails or spikes (3315); iron or steel castings, nec (33219); non-ferrous metal basic shapes (335); non-ferrous metal or base alloy castings (336); miscellaneous primary metal products (339); fabricated metal products (34) *except* metal stamplings (346); machinery, *except* electrical (35); *except* constuction machinery and equipment (3531) and refrigeration machinery or complete air conditioning units (3585); electrical machinery, equipment or supplies (36) *except* motors or generators (3621); instruments, photographic goods, optical goods, watches or clocks (38); and miscellaneous products of manufacturing (39); *except* those recyclable products specifically identified by the Commission at 356 ICC 445-447 and those commodities previously exempt. Carriers shall continue to comply with the Commission's accounting and reporting requirements and shall include in their annual reports a brief statement of operations under this exemption authority.

The initial finding that sufficient intermodal competition exists for the transportation of the enumerated commodities to protect shippers from potential abuse of market power by the railroads is based largely on data from the 1977 Census of Transportation and the 1986 carload waybill sample. Analysis was performed on 259 manufactured commodities at the four and five digit STCC levels of detail, and the individual exemption candidates grouped at the two or three digit level wherever the traffic of the preponderance of individual subgroups was clearly and strongly competitive.

Special attention is directed to and the comments of the parties particularly invited on, the issue of whether or not sufficient competition exists to protect shippers from the abuse of market power. In the absence of convincing evidence to the contrary, competition for the transportation of these commodities will be assumed to be sufficient to warrant their exemption. Moreover, we specifically solicit recent data which may support or refute the supporting findings of our preliminary analysis which has led us to a presumption of an absence of exploitable market power in transportation of these commodities. Alternatively the existance of any data or circumstances which would support the exemption from regulation of

additional manufactured commodities should also be called to our attention.

In addition to any general or specific comments on the need for continued regulation of these commodities, circumstances which are believed to require that we retain certain aspects of regulation should be brought to the Commission's attention.

This proceeding is not a major Federal action significantly affecting the quality of the human environment or the conservation of energy resources. The Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. The purpose and effect of this rule is to reduce regulation. It imposes no new reporting or other requirements directly or indirectly on small entities. The impact, if any, will be to reduce the amount of paperwork, tariff filing, and related activities.

A copy of the Commission's full decision in this matter is available from the Office of the Secretary, Room 2215, Interstate Commerce Commission, Washington, DC 20423 (202)275–7428.

Authority: This rule is issued under the authority of secs. 53 and 559 of the Administrative Procedure Act (5 U.S.C. 553 and 559) and secs. 10321, 10505, 10713, 10762, 11105, and 11122 of Title 49 (U.S.C. 1032, 10505, 10713, 10762, 11105, 11122).

List of Subjects in 49 CFR Part 1039

Railroads.

Decided: January 29, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Sterrett, Simmons, and Lamboley. Commissioner Lamboley commented with a separate expression. Commissioner Simmons dissented with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 88–2735 Filed 2–9–88; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Sarracenia Rubra ssp. Jonesii (Mountain Sweet Pitcher Plant)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list *Sarracenia rubra* ssp. *jonesii* (mountain sweet pitcher plant), a perennial insectivorous herb limited to ten populations in North and South Carolina, as an endangered species under authority of the Endangered Species Act of 1973, as amended (Act). *Sarracenia rubra* ssp. *jonesii* is endangered by drainage and other forms of habitat destruction and by collecting. This proposal, if made final, would implement Federal protection provided by the Act for *Sarracenia rubra* ssp. *jonesii*. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by April 11, 1988. Public hearing requests must be received by March 28, 1988.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Asheville Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Nora Murdock at the above address (704/259-0321 or FTS 672-0321).

SUPPLEMENTARY INFORMATION:

Background

Sarracenia rubra ssp. *jonesii* was first described by E.T. Wherry (1929) from material collected in North Carolina in 1920. The taxonomy of this genus is extremely complex, with extensive natural hybridization documented (Bell 1949, 1952). There has been substantial disagreement about the taxonomic classification of *Sarracenia rubra* ssp. *jonesii*, with different authors having treated it as a regional variant (McDaniel 1971), a form (Bell 1949), a subspecies (Wherry 1972, Schell 1977, 1978), and as a distinct species (Wherry 1929, Case and Case 1976, and McDaniel 1986). If *Sarracenia rubra* ssp. *jonesii* is formally redescribed as a full species (as recommended in McDaniel's 1986 report) after it is added to the List of Endangered and Threatened Plants, an editorial change to the list will be made to reflect this nomenclatural change.

Sarracenia rubra ssp. *jonesii* is an insectivorous, rhizomatous perennial herb, which grows from 21 to 73 centimeters tall. The numerous erect leaves grow in clusters and are hollow and trumpet-shaped, forming slender, almost tubular pitchers (inspiration for the most frequently used common name) covered by a cordate hood. The pitchers are a waxy dull green, usually reticulate-veined with maroon-purple. The tube of the pitchers is retorsely hairy within and often partially filled with liquid and decayed insect parts. The uniquely showy and fragrant flowers have recurving sepals, are borne singly on erect scapes, and are usually maroon in color. The species blooms from April to June, with fruits developing in August (Massey *et al.* 1983, Wood 1960). Reproduction is by seeds or by fragmentation of rhizomes. *Sarracenia rubra* ssp. *jonesii* can be distinguished from *Sarracenia rubra* by its greater pitcher height, scape length equal to pitcher height, long petiole, abruptly expanded pitcher orifice, cordate and slightly reflexed hood, and petals and capsules which are twice as large as those of *Sarracenia rubra* (Massey *et al.* 1983, Sutter 1987, Wherry 1929).

Other common names of pitcher plants include trumpets, bugle-grass, bog-bugles, dumb-watches, watches, buttercups, Eve's cups, biscuit flowers, frog bonnets, fly bugles, and huntsman's cups (Wood 1960, Radford *et al.* 1964). The many common names are illustrative of the fascination generated by these unique organisms. The evolutionary role of carnivory in such plants as *Sarracenia rubra* ssp. *jonesii* is not fully understood, but some evidence indicates that absorption of minerals from insect prey may allow carnivorous species to compete in nutrient-poor habitats (Folkerts 1977). Insects are attracted by nectar secreted by glands near the pitcher orifice, or by the plant's coloration, and fall or crawl into the pitchers. Just inside the mouth of the pitcher tube is a very smooth surface, offering no foothold to most insects; below this the pitcher is lined with stiff downward-pointing hairs which assist descent and virtually prevent ascent. Those insects which cannot escape are eventually digested by enzymes in the fluid secreted inside the pitchers.

Sarracenia rubra ssp. *jonesii* is a species endemic to a few mountain bogs and streams in southwestern North Carolina and northwestern South Carolina along the Blue Ridge Divide. Twenty-six populations of *Sarracenia rubra* ssp. *jonesii* have been reported historically; 10 remain in existence. Four of these populations are in Henderson and Transylvania Counties, North Carolina, and 6 are in Greenville County, South Carolina. Eight of the remaining populations are located on privately owned lands, and two populations are located on public lands administered by the South Carolina Wildlife and Marine Resources Department and the South Carolina Department of Parks, Recreation, and Tourism. The continued existence of this species is threatened by drainage;

impoundment; grazing and cultivation; natural succession; commercial and scientific collection; and development for recreational, residential, and industrial facilities.

Most of the remaining populations are extremely small, with some covering an area of less than 50 square feet. Any significant alteration of the hydrology of these sensitive sites could further jeopardize the species. The site owned by the South Carolina Wildlife and Marine Resources Department is protected. However, the other publicly owned site is part of the State parks system in South Carolina and is vulnerable to any significant increases in intensity of recreational use. The remaining eight sites in private ownership are vulnerable to destruction by habitat alteration or by taking of plants by amateur and professional collectors.

Federal government actions on this species began with section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. The Service published a notice in the July 1, 1975, **Federal Register** (40 FR 27832) of its acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) [now section 4(b)(3)] of the Act and of its intention thereby to review the status of the plant taxa named within. *Sarracenia rubra* ssp. *jonesii* was included in the July 1, 1975, Notice of Review. On December 15, 1980, the Service published a revised Notice of Review for Native Plants in the **Federal Register** (45 FR 82480). *Sarracenia rubra* ssp. *jonesii* was included in that notice as a category-1 species. Category-1 species are those species for which the Service currently has on file substantial information on biological vulnerability and threats to support proposing to list them as endangered or threatened species. A revision of the 1980 notice that maintained *Sarracenia rubra* ssp. *jonesii* in category-1 was published on September 27, 1985 (50 FR 39526).

Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Sarracenia rubra* ssp. *jonesii* because of the acceptance of the 1975 Smithsonian report as a petition. In October of 1983, 1984, 1985, 1986, and 1987, the Service found that the petitioned listing of *Sarracenia rubra* ssp. *jonesii* was warranted but precluded by other listing actions of a higher priority and that additional data on vulnerability and threats was still being gathered. Publication of this proposal constitutes the final finding that is required.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Sarracenia rubra* ssp. *jonesii* Wherry (mountain sweet pitcher plant) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Ten populations of *Sarracenia rubra* ssp. *jonesii* are known to exist in Henderson and Transylvania Counties, North Carolina, and Greenville County, South Carolina. Sixteen other historically known populations have been extirpated due to drainage; impoundment; grazing and cultivation; collection; and development for recreation, residential, and industrial purposes. At least 2 of the remaining 10 populations have also been damaged to some extent by these activities. Only two of the extant populations are afforded some protection from human-induced habitat alterations; neither of these is protected from commercial or private collectors. Of the 16 populations that have been extirpated, at least 6 were eliminated by drainage, 4 were flooded by impoundments, 3 were destroyed by construction of golf courses, 2 were eliminated by industrial development, and 1 was destroyed when its habitat was converted to agricultural use (Charles Moore, Brevard, North Carolina, personal communication, 1987; R. Sutter, North Carolina Plant Conservation Program, personal communication, 1987). Eight of the remaining 10 populations are currently threatened by habitat alteration. In some cases this takes the form of natural succession, with woody species encroaching onto the site, resulting in a drier, shadier habitat which is unsuitable for *Sarracenia rubra* ssp. *jonesii*. The area occupied by the species is rapidly developing as a center of tourism and, as such, is extremely vulnerable to continued and accelerated habitat destruction. Alteration of drainage patterns, unrestricted grazing of livestock, or development for residential/recreation or industrial purposes could further threaten the species if proper planning is not implemented.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Sarracenia rubra ssp. *jonesii*, because of its rarity, is not currently a significant component of the commercial trade in native plants; however, pitcher plants in general are very attractive to the horticultural trade, and many species have been collected for sale and export for well over a century (Harper 1918). According to landowners and others (Craig Moretz, North Carolina State University, personal communication, 1987), collectors have removed plants as well as the entire seed crop from some populations in recent years, in spite of State legislation which makes this practice illegal. Publicity could generate an increased demand, which could easily result in complete extirpation of some of the tiny remaining populations.

C. Disease or Predation

Not applicable to this species at this time.

D. The Inadequacy of Existing Regulatory Mechanisms

Sarracenia rubra ssp. *jonesii* is afforded legal protection in North Carolina by North Carolina General Statutes, SS 106–202.12 to 106–202.19 (Cum. Supp. 1985), which provides for protection from intrastate trade (without a permit), for monitoring and management of State-listed species, and prohibits taking of plants without written permission of landowners. *Sarracenia rubra* ssp. *jonesii* is listed in North Carolina as endangered-special concern—a category which allows for controlled sale of propagated plants. State prohibitions against taking are difficult to enforce and do not cover adverse alterations of habitat such as disruption of drainage patterns and water tables or conversion to agriculture or development. The species is recognized in South Carolina as endangered and of national concern by the South Carolina Advisory Committee on Rare, Threatened, and Endangered Plants in South Carolina; however, this State offers no official protection.

Section 404 of the Federal Water Pollution Control Act (FWPCA) could potentially provide some protection for the habitat of *Sarracenia rubra* ssp. *jonesii;* however, most, if not all, of the sites where it occurs do not meet the wetlands criteria of the FWPCA. The Endangered Species Act would provide additional protection and encouragement of active management where necessary for *Sarracenia rubra* ssp. *jonesii.*

E. Other Natural or Manmade Factors Affecting its Continued Existence

As mentioned in the "Background" section of this proposed rule, many of the remaining populations are small in numbers of individual stems and in terms of area covered by the plants. This, in addition to the rhizomatous nature of the species, indicates that little genetic variability exists in this species, making it more important to maintain as much habitat and as many of the remaining populations as possible. In some cases shrubs and trees threaten to invade this species' habitat, which could result in the elimination of *Sarracenia rubra* ssp. *jonesii* by shading and desiccation. Since this type of succession is a relatively slow process, it is not considered an immediate threat to survival of the species at most sites. However, research and proper management planning for *Sarracenia rubra* ssp. *jonesii* is needed to address this aspect of the species' biology.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Sarracenia rubra* ssp. *jonesii* as endangered. With more than 60 percent of the species' populations having already been eliminated, and only 10 remaining in existence, it definitely warrants protection under the Act. Endangered status seems appropriate because of the imminent serious threats facing most populations. As stated by Folkerts (1977), "More than any other member of the genus, its future seems bleak and it needs immediate attention." Critical habitat is not being designated for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Sarracenia rubra* ssp. *jonesii* at this time. With its history of illegal collection and the ongoing horticultural trade in pitcher plants, any increased publicity or provision of specific location information associated with critical habitat designation could result in increases of collecting pressures on the species. Many of the remaining populations, being extremely small, could likely be extirpated as a result. None of the remaining populations occur on lands under Federal jurisdiction; therefore, the Act's prohibition against removal and reduction to possession of endangered plants from such lands would not apply, and these populations would be completely vulnerable to collectors. Even without plant collection, increased visits to population locations stimulated by critical habitat designation could adversely affect the species through trampling of the plants and their sensitive habitat. The State agencies and private landowners involved in managing the habitat of this species have been informed of the plant's locations and of the importance of protection. Therefore, it would not be prudent to determine critical habitat for *Sarracenia rubra* ssp. *jonesii* at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal activities that could impact *Sarracenia rubra* ssp. *jonesii* in the future include, but are not limited to, the following: road construction, permits for mineral exploration, permits for placing fill in wetlands, and any other activities that do not include planning for this species' continued existence. The Service will work with the involved agencies to secure protection and proper management of *Sarracenia rubra* ssp. *jonesii* while accommodating agency activities to the extent possible.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that some trade permits will be sought and issued, since this species is, to some extent, already a part of the commercial trade. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, P.O. Box 27329, U.S. Fish and Wildlife Service, Washington, DC 20038–7329 (202–343–4955).

On June 6, 1981, *Sarracenia rubra* ssp. *jonesii* was included (as *S. jonesii*) in Appendix I of the Convention on International Trade and Endangered Species of Wild Fauna and Flora (CITES). The effect of this listing is that both export and import permits are

required before international shipment may occur. Such shipment is strictly regulated by CITES member nations to prevent it from being detrimental to the survival of the species and cannot be allowed if it is for primarily commercial purposes. If plants are certified as artificially propagated, however, international shipment requires only export documents under CITES, and commercial shipments may be allowed.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Sarracenia rubra* ssp. *jonesii*;

(2) The location of any additional populations of *Sarracenia rubra* ssp. *jonesii* and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the subject area and their possible impacts on *Sarracenia rubra* ssp. *jonesii*.

Final promulgation of the regulation on *Sarracenia rubra* ssp. *jonesii* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Asheville Field Office (see **"ADDRESSES"** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Bell, C. 1949. A cytotaxonomic study of the Sarraceniaceae of North America. J. Elisha Mitchell Sci. Soc. 65:137–166.

Bell, C. 1952. Natural hybrids in the genus *Sarracenia*. I. History, distribution, and taxonomy. J. Elisha Mitchell Sci. Soc. 68:55–80.

Case, F., and R. Case. 1976. The *Sarracenia rubra* complex. Rhodora 78:270–325.

Folkerts, G. 1977. Endangered and threatened carnivorous plants of North America. *In* Extinction is forever: the status of threatened and endangered plants of the Americas, ed. G.T. Prace and T.S. Elias; New York Botanical Garden, Bronx, NY. 301–313.

Harper, R. 1918. The American pitcher-plants. Journal of the Elisha Mitchell Sci. Soc. September:110–124.

Massey, J., D. Otte, T. Atkinson, and R. Whetstone. 1983. An atlas and illustrated guide to the threatened and endangered vascular plants of the mountains of North Carolina and Virginia. Gen. Tech. Rep. SE–20. Asheville, NC: USDA Forest Service, Southeastern Forest Experiment Station. 156–159.

McDaniel, S. 1971. The genus *Sarracenia* (Sarraceniaceae). Bull. Tall Timbers Res. Stat. 9:1–36.

McDaniel, S. 1986. Taxonomic study of three *Sarracenia* subspecies. Contract report for U.S. Fish and Wildlife Service, Atlanta, GA.

Radford, A., H. Ahles, and C. Bell. 1964. Manual of the vascular flora of the Carolinas. UNC Press, Chapel Hill. 511–512.

Schell, D. 1977. Infraspecific variation in *Sarracenia rubra* Walter: some observations. Castanea 42:149–170.

Schell, D. 1978. Systematic flower studies of *Sarracenia* L. Castanea 43:211–220.

Schell, D. 1978. *Sarracenia rubra* Walter: infraspecific nomenclatural correction. Castanea 43:260–261.

Sutter, R. 1987. *Sarracenia jonesii* species account. North Carolina Plant Conservation Program. 4 pp.

Wherry, E. 1929. Acidity relations of the *Sarracenia*. J. Wash. Acad. Sci. 19:379–390.

Wherry, E. 1972. Notes on *Sarracenia* subspecies. Castanea 37(2):146–147.

Wood, C. 1960. The genera of Sarraceniaceae and Droseraceae in the Southeastern United States. Journal of the Arnold Arboretum (XLI):152–163.

Author

The primary author of this proposed rule is Ms. Nora Murdock, Asheville Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801 (704/259–0321 or FTS 672–0321).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (Agriculture).

Proposed Regulation Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500 (1986), unless otherwise noted.

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under the family Sarraceniaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
SARRACENIACEAE—Pitcher plant family:						
Sarracenia rubra ssp. jonesii (=*Sarracenia jonesii*).	Mountain sweet pitcher plant	U.S.A. (NC, SC)	E		NA	NA

Dated: January 13, 1988.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88-2794 Filed 2-9-88; 8:45am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 53, No. 27
Wednesday, February 10, 1988

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

National Volunteer Advisory Council Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–263, as amended), notice is hereby given of a meeting of the National Volunter Advisory Council.

Date, time and place: March 10, 1988, 9:00 a.m., J.W. Marriott Hotel, 1331 Pennsylvania Avenue, NW., Washington, DC.

Purpose: To select nominees for the President's Volunteer Action Awards for 1988 and hold the regular Council meeting.

In accordance with the determination of the Director of ACTION, this meeting will be partially closed to the public from 9:00 a.m. until 1:00 p.m., pursuant to subsection (c)(9)(B) of section 552b of Title 5, United States Code. The determination of the Director of ACTION is available for public inspection at 806 Connecticut Avenue, NW., Washington, DC 20525, during regular business hours of 8:30 a.m. to 5:30 p.m.

FOR FURTHER INFORMATION CONTACT: Alyse Best, Special Assistant to the Director, at (202) 634–9383.

Signed this 5th day of February 1988, in Washington, DC.

Donna M. Alvarado,

Director of ACTION.

[FR Doc. 88–2781 Filed 2–9–88; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

February 5, 1988.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency prposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

New

• Rural Electrification Administration
Application for Prepayment of Outstanding RTB Principal
REA–476
One time only
Small businesses or organizations; 154 responses; 38 hours; not applicable under 3504(h)
David K. Iverson (202) 382–9539

Larry K. Roberson,

Acting Departmental Clearance Officer.

[FR Doc. 88–2837 Filed 2–9–88; 8:45 am]

BILLING CODE 3410–01–M

Office of the Secretary

Agriculture Biotechnology Research Advisory Committee Meeting

In accordance with the Federal Advisory Committee Act of October 1972 (Pub. L. 92–463, 86 Stat. 770–776), the U.S. Department of Agriculture, Science and Education, announces the following advisory committee meeting:

Name: Agriculture Biotechnology Research Advisory Committee.

Date: March 23–24, 1988.

Time: 9:00 a.m. to approximately 5:00 p.m. on March 23, 9:00 a.m. to approximately 3:00 p.m. on March 24.

Place: The Jefferson Auditorium (between Wings 5 and 6), South Building, 14th and Independence Avenue SW., Washington, DC.

Type of Meeting: This meeting is open as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: To review matters pertaining to agricultural biotechnology research and to develop advice for the Secretary through the Assistant Secretary for Science and Education with respect to policies, programs, operations and activities associated with the conduct of agricultural biotechnology research.

Contact Person: Dr. Alvin L. Young, Executive Secretary, Agriculture Biotechnology Research Advisory Committee, U.S. Department of Agriculture, Office of Agricultural Biotechnology, Room 321–A, Administration Building, 14th and Independence Avenue SW., Washington, DC, 20250. Telephone (202) 447–9168.

Done at Washington, DC, this 4th day of February, 1988.

Orville G. Bentley,

Assistant Secretary, Science and Education.

[FR Doc. 88–2801 Filed 2–9–88; 8:45 am]

BILLING CODE 3410–22–M

Forest Service

Whiskeytown-Shasta-Trinity National Recreation Area, Shasta and Clair Engle-Lewiston (Trinity) Units, CA; Public Hearing

The Department of Agriculture, Forest Service, has prepared and circulated a draft environmental impact statement

(DEIS) for review and revision of the management plan for the two units of the Whiskeytown-Shasta-Trinity National Recreation Area (NRA) that lie within the Shasta-Trinity National Forests boundary and are managed by the Forest Service. The Notice of Availability for the DEIS appeared in the **Federal Register** January 8, 1988.

The Forest Supervisor for the Shasta-Trinity National Forests has scheduled two public hearings to receive oral comments on the DEIS. The hearings will be held March 1, 1988 from 1:00–4:00 pm and 6:00–9:00 pm at the Shasta Inn, 2180 Hilltop Drive, Redding, California.

Speakers may pre-register with the receptionist at the Forest Supervisor's office in Redding (916) 246–5222 during regular business hours, or at the door beginning one-half hour before each hearing. Presentations will be made in order of registration and may be limited to five minutes in length to ensure that everyone has an opportunity to speak.

Written comments on the DEIS must be postmarked no later than March 8, 1988 and addressed to Forest Supervisor, Attn: NRA Plan, 2400 Washington Avenue, Redding, CA 96001. Questions about the NRA plan revision or the EIS should be directed to Pam Gardiner, planning team leader (916) 275–1587.

February 4, 1988.

Robert R. Tyrrel,

Forest Supervisor, Shasta-Trinity National Forests.

[FR Doc. 88–2795 Filed 2–9–88; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 6–88]

Foreign-Trade Zone 86, Tacoma, WA; Application for Expansion and Request for Manufacturing of Oil Country Tubular Goods

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Puget Sound Foreign-Trade Zone Association (PSFTZ), grantee of FTZ 86, requesting authority to expand the zone at the Port of Tacoma, within the Tacoma Customs port of entry. The application also requests authority for operations involving the assembly of oil country tubular goods. It was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on January 25, 1988.

The Tacoma zone was approved in July 1983, and covers 638 acres within the port complex. The requested change would add another 248 acres to the zone within the complex. It is being made so that zone users can be located throughout the complex, based upon their individual requirements.

The request for manufacturing approval is being sought for an assembly operation by Kawasaki Thermal Systems, Inc. (KTS). KTS produces insulated oil country tubular goods, which are used for steam injection in oil field reservoirs. KTS purchases outer and inner steel tubing components from Japan and insulates the inner tubing prior to assembly. The outer tubing is dutiable at 8 percent, and the inner tubing carries a rate of 7.8 percent based on its molybdenum content. The finished product (tubular goods) is apparently dutiable at 7.8 percent.

The company plans to export some 75 percent of its production from this site, and the duty exemption applicable to zone exports will help it compete for foreign sales. No other manufacturing approvals are being sought as part of the expansion.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Joseph Lowry (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Daniel C. Holland, District Director, U.S. Customs Service, Pacific Region, 2039 Federal Office Bldg., 909 First Ave., Seattle, WA 98174; and Colonel Philip L. Hall, District Engineer, U.S. Army Engineer District Seattle, P.O. Box C–3755, Seattle, WA 98124–2255.

Comments concerning the proposed expansion and manufacturing approval are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before March 21, 1988.

A copy of the application is available for public inspection at each of the following locations:

Office of the Port Director, U.S. Customs Service, 2202 Port of Tacoma Road, Tacoma, WA 98421

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th & Pennsylvania Ave. NW., Room 1529, Washington, DC 20230.

Dated: February 3, 1988.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 88–2828 Filed 2–9–88; 8:45 am]

BILLING CODE 3510–DS–M

[Docket No. 7–88]

Foreign-Trade Zone 86, Tacoma, WA; Application for Subzone Tacoma Boatbuilding Co.

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Puget Sound Foreign-Trade Zone Association (PSFTZ), grantee of FTZ 86, requesting special-purpose subzone status for the shipyard facilities of Tacoma Boatbuilding Co. (TBC), in Tacoma, Washington, within the Tacoma Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on January 27, 1988.

The request involves two separate sites in Tacoma. Site 1 (14 acres) is operated by TBC on port-owned property at 401 Alexander Avenue in the Port of Tacoma Complex. Site 2 (19 acres) is owned and operated by TBC and is located at 1840 Marine View Drive, within 2 miles of site 1. The combined facilities (500 employees) are used for the construction and repair of commercial and military vessels. Foreign components used by the company include diesel engines, clutches, deck fittings, anchors, chain and chain stoppers, generators, compressors, life boats and gate valves. This equipment accounts for up to 20 percent of vessel value on construction of commercial vessels and 40–50 percent on military vessels, and ranges from 5 to 15 percent of repair activity.

By helping TBC reduce costs, zone procedures improve the company's ability to compete internationally for new contracts. Most of the imported components are subject to significant duties while the finished products, as oceangoing vessels, are duty-free. The Board in past cases involving shipyards has adopted restrictions requiring the payment of Customs duties on steel mill products available domestically. The applicant has indicated a willingness to accept such restrictions.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Joseph Lowry, (Chairman), Foreign-Trade Zones Staff,

U.S. Department of Commerce, Washington, DC 20230; Daniel C. Holland, District Director, U.S. Customs Service, Pacific Region, 2039 Federal Office Bldg., 909 First Avenue, Seattle, WA 98174; and Colonel Philip L. Hall, District Engineer, U.S. Army Engineer District Seattle, P.O. Box C-3755, Seattle, WA 98124-2255.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before March 21, 1988.

A copy of the application is available for public inspection at each of the following locations:

Office of the Port Director, U.S. Customs Service, 2202 Port of Tacoma Road, Tacoma, WA 98421

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania Ave. NW., Washington, DC 20230.

Dated: February 3, 1988.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 88-2829 Filed 2-9-88; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Hearings

AGENCY: National Marine Fisheries Service (NMFS). NOAA, Commerce.

ACTION: Notice of public hearings and request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council will hold public hearings on draft Amendment 2 for the Red Drum Fishery Management Plan which closes the exclusive economic zone off Alabama, Mississippi, and Louisiana to the harvest of red drum. Individuals and organizations may comment in writing to the Council at the address given below if they are unable to attend the hearings.

DATES: The hearings will begin at 7:00 p.m., and will adjourn at 10:00 p.m. The hearings are scheduled as follows.

1. February 22, 1988, Mobile, Al
2. February 23, 1988, Biloxi, MI
3. February 24, 1988, Metairie, LA; and Tallahassee, FL
4. February 25, 1988, Galveston, TX

The public comment period ends March 9, 1988.

ADDRESSES: Written comments may be sent to Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suit 881, Tampa, FL 33609. The hearings are scheduled as follows:

1. February 22—Mobile Municipal Auditorium, Room G, 401 Auditorium Drive, Mobile, AL
2. February 23—Biloxi Cultural Center Assembly Room, 217 Lameuse, Biloxi, MI
3. February 24—Landmark Motor Hotel, 2601 Severn Avenue, Metairie, LA, and at the Holiday Inn—University Center, 316 West Tennessee Street, Tallahassee, FL
4. February 25—Jury Assembly Room, 722 Moody, Galveston, TX.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, 813-228-2815.

Dated: February 5, 1988.

Ann D. Terbush,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service

[FR Doc. 88-2774 Filed 2-9-88; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council's Pacific Whiting Joint Venture Policy Committee will convene a public meeting, February 23, 1988, at 1 p.m., at the Red Lion Inn-Portland Center, in the Trillium Lake Room, 310 SW. Lincoln Street, Portland, OR, to continue developing criteria for reviewing joint venture applications, and methods to apply these criteria in allocation decisions, as soon as joint venture operations completely replace foreign directed fishing operations. The public meeting will adjourn on February 24, 1988.

FOR FURTHER INFORMATION CONTACT Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, 2000 SW. First Avenue, Suite 420, Portland, OR 97201; telephone: (503) 221-6352.

Date: February 4, 1988.

Ann D. Terbush,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88-2771 Filed 2-9-88; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The South Atlantic Fishery Management Council will convene a public meeting of its Summer Flounder Committee, February 29, 1988, from 1 p.m. to 5 p.m., at the Tidewater Inn, Easton, MD to review public hearing comments, and to reassess the Committee's position regarding the Mid-Atlantic Fishery Management Council's proposed Summer Flounder Fishery Management Plan. A detailed agenda will be available to the public on or about February 18, 1988.

FOR FURTHER INFORMATION CONTACT Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston SC 29407; telephone: (803) 571-4366.

Dated: February 4, 1988.

Ann D. Terbush,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88-2772 Filed 2-9-88; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Precious Corals Plan Monitoring Team, and Advisory Panel will convene jointly, February 16, 1988, at 1:30 p.m., at the Council's office (address below), to review and discuss a proposed Amendment 1 to the Precious Corals Fishery Management Plan (FMP). The amendment proposes three actions: (1) Include the U.S. Pacific Island Possessions within the FMP as a single exploratory area (X-P-PI), with a 1000 kg annual harvest quota for all species of precious coral combined; (2) revise the management unit species to include all commercially-harvested precious corals in the genus *Corallium*, and (3) include a provision for experimental fishing permits.

FOR FURTHER INFORMATION CONTACT: Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813; telephone: (808) 523-1368.

Date: February 4, 1988.

Ann D. Terbush,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88-2773 Filed 2-9-88; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment and Amendment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

February 5, 1988.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on February 11, 1988. For further information contact Diana Solkoff, International Trade Specialists, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 566–6828. For information on embargoes and quota re-openings, please call (202) 377–3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to establish a 1988 restraint limit for Category 359–D and to amend the previously established 1988 limits for Categories 239 and 335.

Background

A CITA directive dated May 20, 1987 (52 FR 19752) established import limits for certain cotton and man-made fiber textile products, including Category 359–D, produced or manufactured in China and exported during the period May 28, 1987 through May 27, 1988.

A CITA directive dated December 30, 1987 (53 FR 55) established import restraint limits for certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, including Categories 239 and 335, produced or manufactured in China and exported during the twelve-month period which began on January 1, 1988 and extends through December 31, 1988.

Under the terms of Section 204 of the Agricultural Act of 1956, as amended, the Arrangement Regarding International Trade in Textiles, done at Geneva on December 20, 1973 and extended by protocols on December 14, 1977, December 22, 1981 and July 31, 1986, and the Memorandum of Understanding of December 18, 1987 between the Governments of the United States and the People's Republic of China, the two governments agreed to establish a specific limit of 1,270,000 pounds for Category 359–D (diapers) for the twelve-month period which began on January 1, 1988 and extends through December 31, 1988.

The previously established 1988 limits for Categories 239 and 335 are being reduced. The limit for Category 239 was reduced to remove Category 359–D which will not be included in Category 239 until implementation of the Harmonized System. The limit for Category 335 is being reduced to account for carryforward used in 1987.

In addition, the sublevel established in the December 30, 1987 directive for Category 340–Y should be corrected to 395,000 dozen and TSUSA under 381.5625 added to the TSUSA's in footnote 2 of the directive. In footnote 1, TSUSA under 384.3434 should be changed to 384.3437 for Category 338pt.

A description of the textile categories in terms of T.S.U.S.A. numbers is available in the CORRELATION: Textile and Apparel Categories with Tariff Schedules of the United States Annotated (See **Federal Register** notice 52 FR 44745 dated December 11, 1987).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

February 5, 1988.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 30, 1987 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1988 and extends through December 31, 1988.

Effective on February 11, 1988, the directive of December 30, 1987 is amended to include a new limit for cotton textile products in Category 359–D [1] and amend limits for cotton and man-made fiber textile products in categories 239 and 335, produced or manufactured in China and exported during the twelve-month period which began on Janaury 1, 1988 and extends through December 31, 1988.

Category	New and amended 12-month limit [1]
239	3,780,000 pounds.
335	250,000 dozen.
359–D	1,270,000 pounds.

[1] The limits have not been adjusted to account for any imports exported after Dec. 31, 1987.

Additionally, the sublevel established in the December 30, 1987 directive for Category 340–Y should be corrected to 395,000 dozen and TSUSA number 381.5625 should be added to the TSUSA's in footnote 2 of the directive. In footnote 1, TSUSA number 384.3434 should be changed to 384.3437 for Category 338pt.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88–2812 Filed 2–9–88; 8:45 am]

BILLING CODE 3510–DR–M

[1] In Category 359–D, only TSUSA number 384–5214.

Officials Authorized To Issue Export Visas for Certain Apparel Products From India

February 4, 1988.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

The Government of India has notified the United States Government under the terms of the Bilateral Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement of February 6, 1987 that the following officials of the Apparel Export Promotion Council are no longer authorized to issue visas for apparel products from India:

Mr. Anil Bakshi, Joint Director, Bombay
Mrs. V. Malvankar, Asst. Director, Palam
Mr. R.K. Sharma, Asst. Director, Palam
Mr. Mahesh Jha, Deputy Director, Jaipur.

Instead, the following officials of the Apparel Export Promotion Council are now authorized to sign visas for apparel products from India:

Mr. R.N. Sharma, Director, Bombay
Mr. D.G. Reddy, Joint Director, Palam
Mr. K. Raju, Asst. Director, Palam
Mr. J.K. Arora, Deputy Director, Jaipur

Mr. V.P. Bhandari, Representative of AEPC, Ludhiana.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88-2811 Filed 2-9-88; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Programmatic Environmental Impact Statement (DPEIS) for Marsh Management in Coastal Louisiana

AGENCIES: U.S. Army Corps of Engineers and U.S. Soil Conservation Service, Defense.

ACTION: Notice of intent to prepare a draft PEIS.

SUMMARY:

1. Proposed Action

The purpose of the DPEIS is to generally assess the beneficial and adverse impacts of various marsh management practices in coastal Louisiana. The DPEIS will be prepared jointly by the U.S. Army Corps of Engineers and the U.S. Soil Conservation Service, with the Corps being the lead agency. Information in the DPEIS will be useful in evaluating permit applications received by the Corps and other agencies for marsh management throughout coastal Louisiana. As individual permit applications are received and processed, site specific environmental evaluations will have to be performed. However, where appropriate, pertinent information from the PEIS can be incorporated by reference.

It is well known that coastal Louisiana is experiencing a high rate of marsh loss. This marsh loss has been an issue of growing concern for a number of years and various Federal and state agencies have been investigating methods to reduce this marsh loss rate. These methods include freshwater and sediment diversions, various types of shoreline stabilization, and creating marsh with dredged material. Several types of marsh management practices have also been investigated and implemented. Throughout coastal Louisiana, over 100 permits for marsh management have been granted or applied for by various individuals and organizations. Some of these involve thousands of acres of marsh.

The most common marsh management scheme involves management of water flow and water levels by constructing levees and various type of water control structures. These types of management plans can reduce marsh loss by controlling saltwater intrusion and erosion, and, if operated properly, can be used to encourage germination of wetland vegetation. However, it is also believed that such management plans may contribute to marsh loss under certain situations. If water levels are not managed properly, marsh loss in the area can actually increase. Such practices may also disrupt transport of sediments over the marsh, depriving the marsh inside the managed areas of sediments needed to help offset marsh loss. Water control structures are known to impede movements of important fisheries species including shrimp, crabs, and finfish. Additionally, placement of water control structures and levees in waterways used by commercial and recreational watercraft can restrict human access to large areas of marsh.

Several kinds of nonstructural activities are also often considered as types of marsh management. These include activities such as marsh burning, planting of vegetation, and control of noxious vegetation, which may have beneficial or adverse impacts, depending on the situation.

Marsh management has become an important and controversial issue because of the potential for conflict among different user groups. Some studies regarding the impacts of marsh management have been conducted and other studies are under way. The PEIS will use the best information available to assess the impacts of marsh management in coastal Louisiana.

2. Alternatives

This DPEIS will assess the impacts of a variety of structural and nonstructural alternatives for marsh management. Structural alternatives will consist primarily of various kinds of water control structures, levees, and different management scenarios used with these structures (e.g., manipulation of water levels). Nonstructural alternatives to be investigated include marsh burning, planting of vegetation, and control of noxious vegetation.

3. Scoping Process

a. Throughout the preparation of the DPEIS, close coordination will be maintained with Federal, state, and local agencies, as well as other interested parties. Numerous formal and informal meetings will be held to obtain information related to the DPEIS and to insure that affected interests are informed of the progress of the study.

b. Significant issues to be addressed in the DPEIS will include the impacts of marsh management on biological, cultural, historical, social, economic, water quality, and human resources. Specific issues will be identified during the scoping process.

c. The DPEIS will be coordinated with appropriate Federal, state, and local agencies, environmental groups, landowners, and other interested parties. All comments received on the DPEIS will be considered during preparation of the Final PEIS.

4. Scoping Meetings

Two scoping meetings have been scheduled to allow the general public and Federal, state, and local agencies an opportunity to provide input and assist in identification of significant issues to be addressed in the DPEIS. One meeting will be held on February 23, 1988, at the Jennings High School, 620 Florence Street, Jennings, Louisiana. Another meeting will be held on February 25, 1988, at the U.S. Army Corps of Engineers Building, Foot of Prytania, New Orleans, Louisiana. Both meetings will begin at 7:00 p.m. Comments received at the meetings will be compiled and analyzed. A scoping document summarizing the results will be made available to all meeting participants. In addition, written scoping comments may be provided through March 11, 1988.

5. Availability

Because of the yet undetermined scope of the document, the controversy surrounding marsh management, the timing of field studies, and possible funding problems, the anticipated date for coordination of the EIS with the public is unknown.

ADDRESS: Questions regarding the DPEIS may be directed to Mr. Dennis L. Chew, U.S. Army Corps of Engineers, P.O. Box 60267, New Orleans, Louisiana 70160-0267, Attention: CELMN-PD-RE, telephone (504) 862-2523.

Date: February 1, 1988.

Lloyd K. Brown,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 88-2770 Filed 2-9-88; 8:45 am]

BILLING CODE 3710-84-M

DEPARTMENT OF ENERGY

Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement; England

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval of the following sale: Contract Number S–EU–931, for the sale of 20 micrograms of thorium-229 to the Open University, England, for use in the determination of isotopic composition of geological materials.

In accordance with section 131 of the Atomic Energy of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Date: February 3, 1988.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 88–2834 Filed 2–9–88; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[ERA Docket No. 87–62–NG]

JDS Energy Corp.; Order Granting Blanket Authorization To Import Natural Gas

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of order granting blanket authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting JDS Energy Corporation (JDS) blanket authorization to import natural gas. The order issued in ERA Docket No. 87–62–NG authorizes JDS to import up to 20 Bcf of natural gas over two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA–076, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, January 28, 1988.

Constance L. Buckley,

Director Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88–2847 Filed 2–9–88; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 88–03–NG]

TXG Gas Marketing Co.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for blanket authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on January 15, 1988, of an application filed by TXG Gas Marketing Company (TXG Marketing) for blanket authorization to import up to 100 MMcf per day and a maximum of 73 Bcf of natural gas over a two-year term beginning on the date of first delivery. TXG Marketing, a Delaware corporation, whose principal place of business is in Owensboro, Kentucky, would import gas on a short-term or spot basis for its own account or act as a broker for a range of U.S. purchasers or Canadian suppliers. The specific terms of each import and sale would be negotiated on an individual basis, including price and volumes. TXG Marketing intends to utilize existing pipeline facilities for transportation of the volumes imported. TXG Marketing also proposes to submit quarterly reports detailing each transaction.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than March 11, 1988.

FOR FURTHER INFORMATION CONTACT:

Tom Dukes, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA–076, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9590.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: TXG Marketing has requested that the ERA consider its requested authorization on an expedited basis. An ERA decision on TXG Marketing's request for expedited treatment, particularly with respect to whether additional written comments or other procedures will be necessary in this case, will not be made until all responses to this notice have been received and evaluated.

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

In the event the ERA approves this request, it may; in order to allow the applicant maximum operating flexibility, designate only a total volume of natural gas to be imported during the authorized term rather than impose daily or annual limits.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the

Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076, RG-23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. They must be filed no later than 4:30 p.m. e.s.t., March 11, 1988.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of TXG Marketing's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076-A at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, February 5, 1988.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88-2848 Filed 2-9-88; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 88-05-LNG]

Application To Amend Import Authority and Request for Expedited Procedures, and Notice of Conference

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application to amend import authorization and request for expedited procedures, and notice of conference.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on January 28, 1988, of an application from Distrigas Corporation (Distrigas) to amend its current import authorization. Distrigas is requesting that it be allowed to purchase and import five cargoes of liquefied natural gas (LNG) from Algeria prior to May 15, 1988, at prices lower than are currently authorized. Because the proposed amendment contemplates imports of LNG during the 1988 winter shipment period, Distrigas has requested that the ERA expedite the processing of this application and issue an order by February 12, 1988.

The ERA has determined that expedited procedures are appropriate if a decision is to be made prior to the end of the 1988 winter shipment period but that public comment is necessary to develop the decisional record. The ERA therefore is shortening the comment period from the normal 30 days to two weeks, but, to ensure that interested parties have an opportunity to comment on the application within the constraints of an expedited procedure, the ERA will hold a public conference with respect to Distrigas' application in this docket on *February 19, 1988, beginning at 10:00 a.m., in the O'Neill Federal Building, Courtroom 2, 10 Causeway Street, Boston, Massachusetts,* in which all interested persons are invited to participate. This conference will afford the public an additional opportunity to present their views on the application to the ERA within the expedited timeframe.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, and written comments should be filed no later than 4:30 p.m., e.s.t. on February 24, 1988.

The Conference will be held on February 19, 1988. Written comments may be submitted in lieu of an oral presentation.

FOR FURTHER INFORMATION CONTACT:

Lot Cooke, Natural Gas Division, Economic Regulatory Administration, U.S. Department of Energy, Forrestal Building, Room GA-076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-8116;

Mike Skinker, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: Distrigas is currently authorized, by an order issued by the ERA on December 31, 1977, in ERA Docket No. 77-011-LNG, to import Algerian LNG pursuant to the Agreement for the Sale and Purchase of Liquefied Natural Gas of April 13, 1976 (1976 Agreement) between Distrigas and Sonatrach, the Algerian national energy corporation. As part of a comprehensive process of contract renegotiation Distrigas and Sonatrach reached an agreement on January 28, 1988, to amend the 1976 Agreement to allow for the sale by Sonatrach to Distrigas of up to five cargoes of LNG during the period January 1, 1988, to May 15, 1988. Under the amendment, the LNG sales price would be $2.50 per MMBtu for the first three cargoes and $2.00 per MMBtu for the next two cargoes, plus, in each case, bunkers and port charges. (Under the currently authorized terms of the 1976 Agreement, the price of the LNG would be approximately $3.37 per MMBtu.) There is a one-time cooling fee of $37,500 per LNG tanker utilized, for up to two ships. The amendment also calls for Sonatrach and Distrigas to attempt to agree, on a best-efforts basis, upon terms for the sale and purchase of up to three further cargoes of LNG to be delivered before May 15, 1988. In addition, to the extent that any of the five LNG cargoes may be scheduled for delivery after May 15, 1988, Sonatrach and Distrigas will meet to decide upon a competitive price for such cargoes. None of the LNG shipments contemplated in the amendment are subject to the take-or-pay provisions of the 1976 Agreement.

The decision on this application to import natural gas will be made consistent with the DOE's import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts

that these arrangements are competitive. Parties opposing the arrangements bear the burden of overcoming this assertion.

Expedited Procedures

Distrigas has requested that the ERA waive its rules and regulations, as prescribed in 10 CFR 590.201(b), which require that an application be filed at least 60 days prior to a proposed import, and that the comment period be shortened in order that an authorization can be issued by February 12, 1988. Distrigas justifies its request for waiver by stating that the amendment was not finalized until immediately prior to its filing of the application, and, therefore, Distrigas could not have made its request any sooner. Distrigas further states that granting the requested expedited treatment of its application will (1) facilitate the implementation of a settlement between Distrigas and Sonatrach; (2) allow Distrigas of Massachusetts Corporation (DOMAC), Distrigas' LNG distributor affiliate, to whom Distrigas sells its LNG, to tender LNG to its existing customers; and (3) allow DOMAC to tender LNG to new customers. Distrigas states that all parties to the earlier ERA proceedings in Docket Nos. 77-011-LNG and 82-013-LNG have been served in this docket.

As indicated above, this import proposal contemplates short-term, seasonal sales of LNG into the Northeast. The ERA has decided to modify the usual notice and comment period so that the requested authorization, if granted, would permit Distrigas to import the LNG for winter peaking purposes. For this reason and others discussed below, the ERA is waiving the 60-day rule and reducing the comment period from 30 to 14 days after publication of this notice. The fact that Distrigas served many interested parties with this application, that those parties are aware of Distrigas' negotiations with Sonatrach, and will have an opportunity to state their positions during the scheduled conference as well as in writing in response to this notice, will allow the ERA to discharge its responsibilities under section 3 of the Natural Gas Act (NGA) while proceeding at a pace that will permit the LNG import to proceed if it is found not to be inconsistent with the public interest.

February 19, 1988, Conference

The resumption of LNG imports by Distrigas has been controversial, as evidenced by the filings the ERA received in response to Distrigas' November 23, 1987, letter informing the ERA that Distrigas was importing two cargoes of LNG pursuant to the 1976 Agreement. In light of these concerns and since the ERA has decided to treat this application in an expedited manner, we believe that a conference provides an appropriate supplemental forum for allowing interested persons to present their views on the application and will clarify the scope of the issues in this docket and frame these issues in the context of DOE's policy guidelines for natural gas imports. The ERA is particularly interested in the views of Distrigas' customers concerning the competitiveness of and need for the five LNG cargoes contemplated in the application and both oral and written presentations should address these issues.

The conference will be conducted as an informal meeting, on the record, where the parties shall present to the ERA their views on the issues raised by the Distrigas application, and discuss those views with each other. The ERA reserves the right to select the persons to be heard at this conference, to schedule their respective statements, and to establish the procedures governing the conduct of the conference.

This conference will be open to the public. Any person who wishes to be scheduled to make an oral presentation should notify the Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076, RG-23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. Requests should be made no later than February 18, 1988, and should indicate the person (with address, telephone number and affiliation) who wishes to speak. Any person having a prepared presentation should bring at least 50 copies of their presentation to the conference for distribution to other attendees. Persons wishing to make oral presentations at the conference who have not been scheduled will be given an opportunity to do so if time permits.

Participation in the conference will not serve to make a person a party to this proceeding. The procedure for becoming a party is explained below.

A transcript of the conference will be made a part of the official record of the proceeding and will be available for public review at the Natural Gas Division Docket Room, at the above address, between the hours of 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday, except Federal holidays. Individual arrangements may be made with the recorder at the conference to purchase copies of the transcirpt.

Interventions

Distrigas has certified that it has served copies of this application on the parties designated on the service list for ERA Docket Nos. 77-011-LNG and 82-013-LNG. The parties in those dockets are principally the DOMAC customers who purchase the LNG imported by Distrigas and, as much, have a continuing interest in Distrigas' import arrangements. The ERA will therefore consider all intervenors in those two dockets as having intervened in this docket and no further action is required on their parts to become parties to this proceeding. The ERA further undertakes to inform the parties of this notice.

Those persons currently considered to be intervenors in this docket are: Boston Gas Company, Brooklyn Union Gas Company, Connecticut Light and Power Company, Bay State Gas Company, Berkshire Gas Company, Algonquin Gas Transmission Company, New Jersey Natural Gas Company, Providence Gas Company, South Jersey Gas Company, Valley Gas Company, Fall River Gas Company, Essex County Gas Company, and the Massachusetts Energy Facilities Siting Council.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person not already a party to this proceeding who wishes to become a party to the proceeding and to have written or oral comments considered as the basis for any decision on the applications, must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to the application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Administration, Room GA-076, RG-23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. They must be filed no later than 4:30 p.m. e.s.t., February 24, 1988.

The Administrator intends to develop a decisional record on this application through responses to this notice by parties, including the parties' written comments and replies thereto, and through consideration of the material

presented at, and the record of, the February 19, 1988, conference.

Additional procedures, in accordance with 10 CFR 590.310, will be scheduled as necessary. If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official records, including the application, the responses filed by parties pursuant to this notice, and the material developed at the conference, in accordance with 10 CFR 590.316.

Copies of Distrigas' application are available for inspection and copying in the Natural Gas Division Docket Room, GA-076, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, on February 5, 1988.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88-2854 Filed 2-9-88; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 87-66-NG]

Westcoast Resources, Inc.; Order Extending Blanket Import Authorization and Increasing Volumes of Natural Gas

AGENCY: Economic Regulatory Administrations, DOE.

ACTION: Notice of order extending blanket import authorization and increasing volumes of natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued to Westcoast Resources, Inc. (Westcoast Resources) an order extending for two years its blanket authorization to import Canadian natural gas for sale in the domestic spot market. The order issued in ERA Docket No. 87-66-NG increases the volume of gas Westcoast Resources is authorized to import up to 200 Bcf during the period February 5, 1988, through February 4, 1990.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, February 3, 1988.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs Economic Regulatory Administration.

[FR Doc. 88-2751 Filed 2-9-88; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Changes to Information Reporting and Record-Keeping Requirements

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of changes to the inventory of energy information reporting and record-keeping requirements.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) hereby gives notice to respondents and other interested parties of changes to the inventory of current information collections as defined in the Paperwork Reduction Act of 1980 (Pub. L. 96-511), for which EIA is responsible. DOE management and procurement assistance collections, which are the responsibility of the Office of Management and Administration, are not included in these notices.

During the first quarter of fiscal year 1988 (October 1, 1987 through December 31, 1987), changes were made to the October 1, 1987 inventory of DOE information collections, which was published in the **Federal Register**, 52 FR 43787 (November 16, 1987).

The first quarter changes are listed below, and include new information collections approved by the Office of Management and Budget (OMB), collections extended, reinstated, discontinued or allowed to expire, and changes to continuing information collections. For each new requirement, requirement extension, or requirement reinstatement, the current DOE control or form number, the title, the OMB control number, and the OMB approval expiration date are listed by the DOE sponsoring office. For the list of discontinued requirements, the discontinued date is shown instead of the expiration date. If applicable, the appropriate Code of Federal Regulations citation is also listed. For revised information collections, a brief summary of the type of revision is noted. Information collections not utilizing structured forms are desginated by an asterisk (*) placed to the right of the control or form number.

FOR FURTHER INFORMATION CONTACT: Etta Harris, EI-73, Energy Information Administration, Mail Stop 1H-023, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-2165.

Information on the availability of single, blank information copies of those collections utilizing structured forms may be obtained by contacting the National Energy Information Center, EI-231, Forrestal Building, U.S. Department of Energy, Washington, DC 20585, (202) 586-8800.

Statutory Authority: Secs. 5(a), 5(b), 13(b), and 52, Pub. L. 93-275, Federal Energy Administration Act of 1974, (15 U.S.C. 764(a), 764(b), 772(b), and 790a).

Issued in Washington, DC, February 3, 1988.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

NEW DOE ENERGY INFORMATION COLLECTIONS APPROVED BY OMB

DOE No.	Title	OMB control No.	Expiration date	CFR citation
Energy Information Administration				
None	None			

DOE ENERGY INFORMATION COLLECTIONS EXTENDED

DOE No.	Title	OMB control No.	Expiration date	CFR citation
Economic Regulatory Administration:				
ERA-766R*	Recordkeeping requirements of DOE's general allocation and price rules.	19030073	09/30/90	10 CFR 210.1, 211.69, 213.6, 221.36.
Energy Information Administration:				
EIA-191	Underground natural gas storage report	19050026	02/29/88	
EIA-857	DOE monthly report of natural gas purchases and deliveries to consumers.	19050157	02/29/88	
Federal Energy Regulatory Commission:				
FERC-15	Interstate pipeline's annual report of gas supply	19020037	08/31/90	18 CFR 260.7.
FERC-16AT*	Interstate pipeline curtailment (telephone) survey	19020139	02/29/88	By FERC order.
FERC-121	Application for maximum lawful price under the Natural Gas Policy Act of 1978.	19020038	10/31/90	18 CFR Part 274 Subpart B.
FERC-538*	Gas pipeline certificate: Initial service	19020061	02/29/88	18 CFR 156.3-.5.
FERC-566*	Report of utility's twenty largest purchasers	19020114	03/31/88	18 CFR 46.3.
FERC-569*	Refund obligations (producer)	19020111	10/31/90	18 CFR Part 273.
FERC-585*	Reporting of electric energy shortages and contingency plans under PURPA 206.	19020138	09/30/90	18 CFR Part 294.

REINSTATED DOE ENERGY INFORMATION COLLECTIONS

DOE No.	Title	OMB control No.	Expiration date	CFR citation
Federal Energy Regulatory Commission:				
FERC-582*	Oil, gas, and electric fees and annual charges	19020132	08/31/90	18 CFR 385.106, 382.105, 385.102, 382.201(b)(4), 381.106

DOE ENERGY INFORMATION COLLECTIONS DISCONTINUED OR ALLOWED TO EXPIRE

DOE No.	Title	OMB control No.	Discontinued date	CFR citation
Federal Energy Regulatory Commission:				
ICC-ACV-1	Statement of property changes other than land and rights-of-way pipeline carriers.	19020011	12/31/87	18 CFR 361.100.
ICC-ACV-2	Summary of land and rights-of-way property changes—pipelines carriers.	19020018	12/31/87	18 CFR 361.101.
ICC-ACV-3	Summary of changes in original cost and total original cost at end of period—pipeline carriers.	19020010	12/31/87	18 CFR 361.102.
ICC-ACV-4	Summary of cost reproduction new and reproduction of new less depreciation—pipeline carriers.	19020009	12/31/87	18 CFR 361.103.
ICC-ACV-5	Inventory of property other than land and rights-of-way	19020015	12/31/87	18 CFR 360.100.
ICC-ACV-6	Inventory of land and rights-of-way	19020016	12/31/87	18 CFR 360.101.
ICC-ACV-7	Summary of original cost of inventory	19020017	12/31/87	18 CFR 360.102.
ICC-ACV-8	Cost data for equipment and tanks	19020014	12/31/87	18 CFR 360.103.
ICC-ACV-9	Cost data for pipeline construction	19020013	12/31/87	18 CFR 360.104.

[FR Doc. 88-2752 filed 2-9-88; 8:45 am]
BILLING CODE 6450-01-M

Office of Energy Research

High Energy Physics Advisory Panel; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: High Energy Physics Advisory Panel (HEPAP)

Date and Time: Tuesday, March 1, 1988, 8:30 am-6:00 pm; Wednesday, March 2, 1988, 8:30 am-4:00 pm

Place: Brookhaven National Laboratory, Berkner Hall, Room B Upton, NY 11973-5000.

Contact: Dr. P. K. Williams, Executive Secretary, High Energy Physics Advisory Panel, U.S. Department of Energy, ER-221, GTN, Washington, DC 20545, Telephone: (301) 353-4829.

Purpose of Panel: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative Agenda

Tuesday, March 1, 1988

—Presentation and Discussion of the National Science Foundation Elementary Particle Physics Program FY 1989 Presidential Budget Request (if available) and FY 1988 Budget
—Presentation and Discussion of the Department of Energy (DOE) High Energy Physics Program FY 1989 Presidential Budget Request (if available) and FY 1988 Budget.
—Discussion of the FY 1988 and FY 1989 Budget Plans for the Laboratories
—Status and Plans for the

Superconducting Super Collider (SSC)
—Review of SSC Magnet Programs and Associated Activities at Brookhaven National Laboratory (BNL)
—HEPAP review of the Brookhaven National Laboratory High Energy Physics Program

Wednesday, March 2, 1988

—Status Report on SLC (Stanford Linear Collider) Commissioning at SLAC (Stanford Linear Accelerator Center)
—Status Reports of Subgroups on Detectors, Facilities and Budget
—Discussion on Generic Detector R&R for SSC
—Discussion of the Report of the BESAC (Basic Energy Sciences Advisory Committee) Subpanel on High Temperature Superconductors
—Discussion on Computer Networking
—Further Discussion of Foregoing Items
—Public Comment (10 minute rule)

Public Participation

The meeting is open to the public. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to make oral statements pertaining to agenda items should contact the Executive Secretary at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes

Available for public review and copying at the Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on February 4, 1988.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 88-2750 Filed 2-9-88; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ST88-970-000 et al.]

Algonquin Gas Transmission Co.; Self-Implementing Transactions

February 4, 1988.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations, and sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA).[1]

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's Regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's Regulations and section 311(a)(2) of the NGPA. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and the expiration date of the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the Commission's Regulations and section 312 of the NGPA.

A "G" indicates transportation by an interstate piepline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G-S" indicates transportation by an interstate pipeline company on behalf of any shipper pursuant to a § 284.223 and a blanket certificate issued under § 284.221 of the Commission's Regulations or pursuant to blanket certificate authority granted under § 284.225 or § 284.226 of the Commission's Regulations.

A "G(LT)" or "G(LS)" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

A "G(HT)" or "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to a transaction reflected in this notice should on or before February 26, 1988, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's Regulations.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date[2]	Transportation rate (¢/MMBTU)
ST88-0970	Algonquin Gas Transmission Co	Orange and Rockland Utilities, Inc	12-01-87	B		
ST88-0971	Algonquin Gas Transmission Co	Bay State Gas Co	12-01-87	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date[2]	Transportation rate (¢/MMBTU)
ST88-0972	Gulf Energy Pipeline Co	Trunkline Gas Co	12-01-87	C		
ST88-0973	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	12-01-87	B		
ST88-0974	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	12-01-87	B		
ST88-0975	Panhandle Eastern Pipe Line Co	Southeastern Michigan Gas Co	12-01-87	B		
ST88-0976	ANR Pipeline Co	Wisconsin Public Service Co	12-02-87	B		
ST88-0977	ANR Pipeline Co	Wisconsin Gas Co	12-02-87	B		
ST88-0978	ANR Pipeline Co	Sun Gas Transmission Co., Inc	12-02-87	B		
ST88-0979	Tennessee Gas Pipeline Co	Fitchburg Gas & Electric Light Co	12-01-87	B		
ST88-0980	Tennessee Gas Pipeline Co	Central Hudson Gas and Electric Co	12-01-87	B		
ST88-0981	Tennessee Gas Pipeline Co	Valley Gas Co	12-01-87	B		
ST88-0982	Tennessee Gas Pipeline Co	Cabot Corp.	12-01-87	B		
ST88-0983	Tennessee Gas Pipeline Co	Energy North, Inc	12-01-87	B		
ST88-0984	Tennessee Gas Pipeline Co	North Penn Gas Co	12-01-87	B		
ST88-0985	Tennessee Gas Pipeline Co	Essex County Gas Co	12-01-87	B		
ST88-0986	Tennessee Gas Pipeline Co	Mountaineer Gas Co	12-01-87	B		
ST88-0987	Tennessee Gas Pipeline Co	Consolidated Edison Co. of NY, Inc	12-01-87	B		
ST88-0988	Tennessee Gas Pipeline Co	Orange and Rockland Utilities, Inc	12-01-87	B		
ST88-0989	Texas Gas Transmission Corp.	Mississippi Valley Gas Co	12-01-87	B		
ST88-0990	Trunkline Gas Co	Louisiana Intrastate Gas Corp	12-01-87	B		
ST88-0991	El Paso Natural Gas Co	Southern California Gas Co	12-02-87	B		
ST88-0992	El Paso Natural Gas Co	Southern California Gas Co	12-02-87	B		
ST88-0993	Natural Gas Pipeline Co. of America	Union Electric Co	12-02-87	B		
ST88-0994	Northern Natural Gas Co	Madison Gas & Electric Co	12-02-87	B		
ST88-0995	Northern Natural Gas Co	Iowa-Illinois Gas & Electric Co	12-02-87	B		
ST88-0996	Northern Natural Gas Co	Northern Indiana Public Service Co	12-02-87	B		
ST88-0997	Valero Transmission, L.P.	El Paso Natural Gas Co	12-02-87	C		
ST88-0998	Valero Transmission, L.P.	Transwestern Pipeline Co	12-02-87	C		
ST88-0999	Valero Transmission, L.P.	Trunkline Gas Co	12-02-87	C		
ST88-1000	Valero Transmission, L.P.	Valero Interstate Transmission Co	12-02-87	C		
ST88-1001	Valero Transmission, L.P.	El Paso Natural Gas Co	12-02-87	C		
ST88-1002	Valero Transmission, L.P.	El Paso Natural Gas Co	12-02-87	C		
ST88-1003	Valero Transmission, L.P.	Natural Gas Pipeline Co. of America	12-02-87	C		
ST88-1004	Valero Transmission, L.P.	Valero Interstate Transmission Co	12-02-87	C		
ST88-1005	Tennessee Gas Pipeline Co	Peoples Natural Gas Co., et al	12-01-87	B		
ST88-1006	Tennessee Gas Pipeline Co	Berkshire Gas Co	12-01-87	B		
ST88-1007	Tennessee Gas Pipeline Co	Boston Gas Co	12-01-87	B		
ST88-1008	Panhandle Eastern Pipe Line Co	Northern Indiana Public Service Co	12-03-87	B		
ST88-1009	Northern Natural Gas Co	Iowa-Illinois Gas & Electric Co	12-02-87	B		
ST88-1010	ANR Pipeline Co	Wisconsin Public Service Co	12-02-87	B		
ST88-1011	ANR Pipeline Co	Sun Gas Transmission Co., Inc	12-02-87	B		
ST88-1012	ANR Pipeline Co	Wisconsin Public Service Co	12-02-87	B		
ST88-1013	Tennessee Gas Pipeline Co	Atlanta Gas Light Co	12-02-87	B		
ST88-1014	Texas Sea Rim Pipeline, Inc	Michigan Consolidated Gas Co., et al	12-02-87	B		
ST88-1015	ANR Pipeline Co	Northern Illinois Gas Co	12-02-87	B		
ST88-1016	ANR Pipeline Co	Wisconsin Public Service Co	12-02-87	B		
ST88-1017	ANR Pipeline Co	Madison Gas & Electric Co	12-02-87	B		
ST88-1018	ANR Pipeline Co	Cokinos Natural Gas Co	12-02-87	B		
ST88-1019	ANR Pipeline Co	Wisconsin Natural Gas Co	12-02-87	B		
ST88-1020	Texas Eastern Transmission Corp	Tennessee River Intrastate Gas Co	12-02-87	B		
ST88-1021	ANR Pipeline Co	Madison Gas & Electric Co	12-02-87	B		
ST88-1022	ANR Pipeline Co	Northern Indiana Public Service Co	12-02-87	B		
ST88-1023	ANR Pipeline Co	Wisconsin Power and Light Co	12-02-87	B		
ST88-1024	ANR Pipeline Co	Madison Gas & Electric Co	12-02-87	B		
ST88-1025	ARKLA Energy Resources	Peoples Gas Light & Coke Co	12-02-87	B		
ST88-1026	Consolidated Gas Transmission Corp	Corning Natural Gas Corp	12-02-87	B		
ST88-1027	Consolidated Gas Transmission Corp	New York State Electric and Gas Co	12-02-87	B		
ST88-1028	Panhandle Eastern Pipe Line Co	Union Electric Co	12-02-87	B		
ST88-1029	SNG Intrastate Pipeline, Inc	Atlantic Gas Light Co	12-02-87	C	04-30-88	25.00
ST88-1031	Texas Eastern Transmission Corp	Connecticut Natural Gas Corp	12-02-87	B		
ST88-1032	Texas Eastern Transmission Corp	Public Service Electric and Gas Co	12-02-87	B		
ST88-1033	Texas Eastern Transmission Corp	Village of Crossville, et al	12-02-87	B		
ST88-1034	Texas Eastern Transmission Corp	Long Island Lighting Co	12-02-87	B		
ST88-1035	Texas Eastern Transmission Corp	Central Illinois Public Service Co	12-02-87	B		
ST88-1036	Texas Eastern Transmission Corp	Central Illinois Public Service Co	12-02-87	B		
ST88-1037	Texas Eastern Transmission Corp	New York State Electric and Gas Co	12-02-87	B		
ST88-1038	Texas Eastern Transmission Corp	Endevco Pipeline Co	12-02-87	B		
ST88-1039	Texas Eastern Transmission Corp	Associated Natural Gas Co	12-02-87	B		
ST88-1040	Texas Eastern Transmission Corp	Providence Gas Co	12-02-87	B		
ST88-1041	Texas Eastern Transmission Corp	Niagara Mohawk Power Corp	12-02-87	B		
ST88-1042	Texas Eastern Transmission Corp	City of Grayville	12-02-87	B		
ST88-1043	Texas Eastern Transmission Corp	Union Elect. Co., et al	12-02-87	B		
ST88-1044	Texas Eastern Transmission Corp	Public Service Electric and Gas Co	12-02-87	B		
ST88-1045	Texas Eastern Transmission Corp	Excel Intrastate Pipeline Co	12-02-87	B		
ST88-1046	Texas Eastern Transmission Corp	Consumers Gas Co	12-02-87	B		
ST88-1047	Texas Eastern Transmission Corp	East Ohio Gas Co	12-02-87	B		
ST88-1048	Texas Eastern Transmission Corp	Village of Enfield	12-02-87	B		
ST88-1049	Texas Eastern Transmission Corp	Elizabethtown Gas Co., et al	12-02-87	B		
ST88-1050	Texas Eastern Transmission Corp	American Distribution Co., Inc	12-02-87	B		
ST88-1051	Texas Eastern Transmission Corp	Rochester Gas & Electric Corp	12-02-87	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date[2]	Transportation rate (¢/MMBTU)
ST88-1052	Texas Eastern Transmission Corp	Baltimore Gas and Electric Co	12-02-87	B		
ST88-1053	Texas Eastern Transmission Corp	Southeastern Michigan Gas Co	12-02-87	B		
ST88-1054	Texas Eastern Transmission Corp	Central Illinois Public Service Co	12-02-87	B		
ST88-1055	Texas Eastern Transmission Corp	Philadelphia Electric Co	12-02-87	B		
ST88-1056	Texas Eastern Transmission Corp	Batesville Water & Gas Utility	12-02-87	B		
ST88-1057	Texas Eastern Transmission Corp	Village of Enfield Co	12-02-87	B		
ST88-1058	Texas Eastern Transmission Corp	Columbia Gas of Pennsylvania, Inc	12-02-87	B		
ST88-1059	Texas Eastern Transmission Corp	Mountaineer Gas Co	12-02-87	B		
ST88-1060	Trunkline Gas Co	Central Illinois Light Co	12-02-87	B		
ST88-1061	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	12-02-87	B		
ST88-1062	Panhandle Eastern Pipe LIne Co	Great River Gas Co	12-03-87	B		
ST88-1063	Panhandle Eastern Pipe Line Co	Miami Pipeline Co	12-03-87	B		
ST88-1064	Panhandle Eastern Pipe Line Co	Central Illinois Public Service Co	12-03-87	B		
ST88-1065	Tennessee Gas Pipeline Co	Delmarva Power & Light Co., et al	12-03-87	B		
ST88-1066	Delhi Gas Pipeline Corp	Panhandle Eastern Pipe Line Co	12-03-87	C		
ST88-1067	Delhi Gas Pipeline Corp	Panhandle Eastern Pipe Line Co	12-03-87	C		
ST88-1068	Delhi Gas Pipeline Corp	Northern Natural Gas Co	12-03-87	C		
ST88-1069	Valero Insterstate Tranmission Co	Valero Transmission, L.P.	12-03-87	B		
ST88-1070	Delhi Gas Pipeline Corp	Transwestern Pipeline Co	12-03-87	C		
ST88-1071	Tennessee Gas Pipeline Co	Humphreys County Utility District	12-03-87	b		
ST88-1072	Tennessee Gas Pipeline Co	Berkshire Gas Co	12-03-87	B		
ST88-1073	Tennessee Gas Pipeline Co	Excel Intrastate Pipeline Co	12-03-87	B		
ST88-1074	Tennessee Gas Pipeline Co	East Ohio Gas Co., et al	12-03-87	B		
ST88-1075	Tennessee Gas Pipeline Co	Public Service Elect. & Gas Co., et al	12-03-87	B		
ST88-1076	Tennessee Gas Pipeline Co	Llano, Inc.	12-03-87	B		
ST88-1077	United Texas Transmission Co	Transcontinental Gas Pipe Line Corp	12-03-87	C		
ST88-1078	United Texas Transmission Co	Natural Gas Pipeline Co of America	12-03-87	C		
ST88-1079	Seagull Shoreline System	Northern Natural Gas Co	12-03-87	C	05-01-88	30.00
ST88-1080	Texas Gas Transmission Corp	Hoosier Gas Corp,	12-03-87	B		
ST88-1081	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1082	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1083	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1084	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1085	Consolidated Gas Transmission Corp	North Penn Gas Co	12-03-87	B		
ST88-1086	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1087	Consolidated Gas Transmission Corp	Hope Gas, Inc.	12-03-87	B		
ST88-1088	Consolidated Gas Transmission Corp	East Ohio Gas Co	12-03-87	B		
ST88-1089	Consolidated Gas Transmission Corp	New York State Electric, and Gas Co	12-03-87	B		
ST88-1090	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1091	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1092	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1093	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1094	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1095	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1096	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1097	Consolidated Gas Transmission Corp	New York State Electric and Gas Co	12-03-87	B		
ST88-1098	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1099	Consolidated Gas Transmission Corp	Rochester Gas & Electric Corp	12-03-87	B		
ST88-1100	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1101	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1102	Consolidated Gas Transmission Corp	New York State Electrc and Gas Co	12-03-87	B		
ST88-1103	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1104	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1105	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1106	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1107	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1108	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1109	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1110	Consolidated Gas Transmission Corp	East Ohio Gas Co	12-03-87	C		
ST88-1111	Consolidated Gas Transmission Corp	New York State Electric, and Gas Co	12-03-87	B		
ST88-1112	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1113	Consolidated Gas Transmission Corp	New York State Electric, and Gas Co	12-03-87	B		
ST88-1114	Consolidated Gas Transmission Corp	New York State Electric, and Gas Co	12-03-87	B		
ST88-1115	Consolidated Gas Transmission Corp	New York State Electric, and Gas Co	12-03-87	B		
ST88-1116	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1117	Consolidated Gas Transmission Corp	East Ohio Gas Co	12-03-87	B		
ST88-1118	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1119	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1120	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1121	Consolidated Gas Transmission Corp	Peoples Natural Gas Co	12-03-87	B		
ST88-1122	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1123	Ringwood Gathering Co	Ringwood Marketing Co	11-27-87	G-S		
ST88-1124	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1125	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1126	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		
ST88-1127	Northern Natural Gas Co	Iowa Public Service Co	12-03-87	B		
ST88-1128	Northern Natural Gas Co	Channel Industries Gas Co	12-03-87	B		
ST88-1129	Arkla Energy Resources	Arkla Energy Resources, (La Intra. Seg.)	12-04-87	B		
ST88-1130	Consolidated Gas Transmission Corp	Niagara Mohawk Power Corp	12-03-87	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date[2]	Transportation rate (¢/MMBTU)
ST88-1131	Columbia Gas Transmission Corp	South Carolina Pipeline Corp	12-04-87	B		
ST88-1132	El Paso Natural Gas Co	Southern California Gas Co	12-04-87	B		
ST88-1133	El Paso Natural Gas Co	Pacific Gas and Electric Co	12-04-87	B		
ST88-1134	Northern Natural Gas Co	Oklahoma Gas Pipeline Co	12-04-87	B		
ST88-1135	Northern Natural Gas Co	Cedar Falls Municipal Gas Utilities	12-04-87	B		
ST88-1136	Northern Natural Gas Co	Iowa-Illinois Gas & Electric Co	12-04-87	B		
ST88-1137	Sea Robin Pipeline Co	Columbia Gas of Ohio, Inc., et al	12-04-87	B		
ST88-1138	Tennessee Gas Pipeline Co	Creole Gas Pipeline Co	12-04-87	B		
ST88-1139	Texas Eastern Transmission Corp	Pennsylvania Gas and Water Co	12-04-87	B		
ST88-1140	Trunkline Gas Co	Northern Indiana Public Service Co	12-04-87	B		
ST88-1141	Trunkline Gas Co	Consumers Power Co	12-04-87	B		
ST88-1142	Trunkline Gas Co	Northern Indiana Public Service Co	12-04-87	B		
ST88-1143	Trunkline Gas Co	Consumers Power Co	12-04-87	B		
ST88-1144	Trunkline Gas Co	THC Pipeline Co	12-04-87	B		
ST88-1145	Trunkline Gas Co	Consumers Power Co	12-04-87	B		
ST88-1146	Trunkline Gas Co	Brooklyn Union Gas Co, et al	12-04-87	B		
ST88-1147	SNG Intrastate Pipeline, Inc	South Carolina Pipeline Corp	12-04-87	C	05-02-88	25
ST88-1148	Trunkline Gas Co	Consumers Power Co	12-04-87	B		
ST88-1149	Trunkline Gas Co	Consumers Power Co	12-04-87	B		
ST88-1150	United Gas Pipe Line Co	Caddo Natural Gas Co	12-04-87	B		
ST88-1151	United Gas Pipe Line Co	Texas Southern Pipeline, Inc	12-04-87	B		
ST88-1152	United Gas Pipe Line Co	Texas Southern Pipeline, Inc	12-04-87	B		
ST88-1153	United Gas Pipe Line Co	Houston Pipe Line Co	12-04-87	B		
ST88-1154	United Gas Pipe Line Co	Mobile Gas Service Corp	12-04-87	B		
ST88-1155	United Gas Pipe Line Co	Victoria Gas Corp	12-04-87	B		
ST88-1156	ANR Pipeline Co	Suburban Fuel Gas Corp	12-07-87	B		
ST88-1157	Panhandle Eastern Pipe Line Co	Illinois Power Co	12-07-87	B		
ST88-1158	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	12-07-87	B		
ST88-1159	ONG Transmission Co	Panhandle Eastern Pipe Line Co	12-07-87	C	05-05-88	10
ST88-1160	Louisiana Resources Co	Louisiana Gas System, Inc	12-03-87	C	05-01-88	26
ST88-1161	Natural Gas Pipeline Co of America	Southern Indiana Gas & Elect. Co, et al	12-07-87	B		
ST88-1162	Natural Gas Pipeline Co of America	Llano, Inc	12-07-87	B		
ST88-1163	Panhandle Eastern Pipe Line Co	Bishop Pipeline Corp	12-07-87	B		
ST88-1164	Tennessee Gas Pipeline Co	Acme Natural Gas Co, et al	12-07-87	B		
ST88-1165	Natural Gas Pipeline Co of America	Louisiana Gas Marketing Co	12-07-87	B		
ST88-1166	Texas Eastern Transmission Corp	Corning Natural Gas Corp	12-007-87	B		
ST88-1167	Tennessee Gas Pipeline Co	Excel Intrastate Pipeline Co	12-07-87	B		
ST88-1168	Panhandle Eastern Pipe Line Co	Delhi Gas Pipeline Corp	12-08-87	B		
ST88-1169	ANR Pipeline Co	Sarvic Gas Co	12-08-87	B		
ST88-1170	Westar Transmission Co	El Paso Natural Gas Co	12-08-87	C		
ST88-1171	ANR Pipeline Co	Wisconsin Public Service Co	12-08-87	B		
ST88-1172	ANR Pipeline Co	Public Service Electric and Gas Co	12-08-87	B		
ST88-1173	ANR Pipeline Co	Wisconsin Power and Light Co	12-08-87	B		
ST88-1174	Northern Natural Gas Co	Quivira Gas Co	12-08-87	B		
ST88-1175	Northern Natural Gas Co	Louisiana Gas Marketing Co	12-08-87	B		
ST88-1176	Northern Natural Gas Co	Houston Pipe Line Co	12-08-87	B		
ST88-1177	Columbia Gulf Transmission Co	Wintershall Pipeline Corp	12-09-87	B		
ST88-1178	Tennessee Gas Pipeline Co	Pennsylvania Gas and Water Co	12-09-87	B		
ST88-1179	Northern Natural Gas Co	Neches Gas Distribution Co	12-09-87	B		
ST88-1180	Tennessee Gas Pipeline Co	Gulf Coast Energy, Inc	12-09-87	B		
ST88-1181	Tennessee Gas Pipeline Co	Pennsylvania Gas & Water Co., et al	12-09-87	B		
ST88-1182	Tennessee Gas Pipeline Co	Conn. Light & Power Co., et al	12-09-87	B		
ST88-1183	Columbia Gulf Transmission Co	Acadian Gas Pipeline Co., et al	12-09-87	B		
ST88-1184	Columbia Gulf Transmission Co	National Fuel Gas Supply Corp., et al	12-09-87	B		
ST88-1185	Arkla Energy Resources	UGI Corp	12-09-87	B		
ST88-1186	MIGC, Inc	Southern Calif. Gas Co., et al	12-10-87	B		
ST88-1187	Colorado Interstate Gas Co	Public Service Co of Colorado	12-10-87	B		
ST88-1188	Colorado Interstate Gas Co	Public Service Co of Colorado	12-10-87	B		
ST88-1189	Colorado Interstate Gas Co	Eastex Gas Transmission Co	12-10-87	B		
ST88-1190	Panhandle Eastern Pipe Line Co	Amarillo Natural Gas Co., Inc	12-10-87	B		
ST88-1191	Panhandle Eastern Pipe Line Co	Northern Indiana Public Service Co	12-10-87	B		
ST88-1192	Texas Gas Transmission Corp	First Utility District of Tipton County	12-10-87	B		
ST88-1193	Transcontinental Gas Pipe Line Corp	Louisiana Natural Gas Pipeline, Inc	12-10-87	B		
ST88-1194	Transcontinental Gas Pipe Line Corp	Public Service Co of N. Carolina	12-10-87	B		
ST88-1195	Transcontinental Gas Pipe Line Corp	Corpus Christi Industrial Pipeline Co	12-10-87	B		
ST88-1196	Transcontinental Gas Pipe Line Corp	Louisiana Gas Marketing Co	12-10-87	B		
ST88-1197	Transcontinental Gas Pipe Line Corp	Virginia Natural Gas Co	12-10-87	B		
ST88-1198	Natural Gas Pipeline Co of America	Southern California Gas Co	12-07-87	B		
ST88-1199	Natural Gas Pipeline Co of America	Peoples Gas Light & Coke Co	12-10-87	B		
ST88-1200	Natural Gas Pipeline Co of America	Peoples Gas Light & Coke Co	12-10-87	B		
ST88-1201	Natural Gas Pipeline Co of America	Yankee Pipeline Co	12-10-87	B		
ST88-1202	Natural Gas Pipeline Co of America	Southern California Gas Co	12-10-87	B		
ST88-1203	Natural Gas Pipeline Co of America	Northern Illinois Gas Co	12-10-87	B		
ST88-1204	Natural Gas Pipeline Co of America	Yankee Pipeline Co	12-10-87	B		
ST88-1205	Natural Gas Pipeline Co of America	Northern Indiana Public Service Co	12-10-87	B		
ST88-1206	ANR Pipeline Co	Wisconsin Natural Gas Co	12-11-87	B		
ST88-1207	ANR Pipeline Co	Wisconsin Gas Co	12-11-87	B		
ST88-1208	Texas Eastern Transmission Corp	City of Loretto	12-11-87	B		
ST88-1209	Texas Eastern Transmission Corp	Consumers Power Co	12-11-87	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date[2]	Transportation rate (¢/MMBTU)
ST88-1210	Texas Eastern Transmission Corp	Public Service Electric and Gas Co	12-11-87	B		
ST88-1211	Texas Eastern Transmission Corp	UGI Development	12-11-87	B		
ST88-1212	ANR Pipeline Co	Wisconsin Public Service Co	12-11-87	B		
ST88-1213	Mississippi Fuel Co		12-11-87	C	05-09-88	14.63 33.17
ST88-1214	Texas Eastern Transmission Corp	Public Service Electric and Gas Co	12-11-87	B		
ST88-1215	Texas Eastern Transmission Corp	Texas Southeastern Gas Co	12-11-87	B		
ST88-1216	Texas Eastern Transmission Corp	Columbia Gas of Ohio, Inc	12-11-87	B		
ST88-1217	Texas Eastern Transmission Corp	New York State Electric and Gas. Co	12-11-87	B		
ST88-1218	Texas Eastern Transmission Corp	Public Service Electric and Gas Co	12-11-87	B		
ST88-1219	Panhandle Eastern Pipe Line Co	NGC Intrastate Pipeline Co	12-07-87	B		
ST88-1220	Transcontinental Gas Pipe Line Corp	Atlanta Gas Light Co	12-10-87	B		
ST88-1221	Tennessee Gas Pipeline Co	Consolidated Edison Co of NY, Inc	12-14-87	B		
ST88-1222	Anr Pipeline Co	Wisconsin Fuel and Light Co	12-11-87	B		
ST88-1223	Anr Pipeline Co	Consumers Power Co	12-11-87	B		
ST88-1224	Anr Pipeline Co	Michigan Gas Co	12-11-87	B		
ST88-1225	Anr Pipeline Co	Northern Indiana Fuel & Light Co	12-11-87	B		
ST88-1226	Anr Pipeline Co	Transok, Inc	12-11-87	B		
ST88-1227	United Texas Transmission Co	Natural Gas Pipeline Co. of America	12-11-87	C		
ST88-1228	Northern Border Pipeline Co	Anr Pipeline Co	12-14-87	G		
ST88-1229	Northern Border Pipeline Co	Tennessee Gas Pipeline Co	12-14-87	G		
ST88-1230	Northern Border Pipeline Co	Transcontinental Gas Pipe Line Corp	12-14-87	G		
ST88-1231	Trunkline Gas Co	Consumers Power Co	12-14-87	B		
ST88-1232	Trunkline Gas Co	Consumers Power Co	12-14-87	B		
ST88-1233	Trunkline Gas Co	Michigan Consolidated Gas Co	12-14-87	B		
ST88-1234	Trunkline Gas Co	Consumers Power Co	12-14-87	B		
ST88-1235	Trunkline Gas Co	Consumers Power Co	12-14-87	B		
ST88-1236	Trunkline Gas Co	Consumers Power Co	12-14-87	B		
ST88-1237	Trunkline Gas Co	Consumers Power Co	12-14-87	B		
ST88-1238	Trunkline Gas Co	Consumers Power Co	12-14-87	B		
ST88-1239	Trunkline Gas Co	Consumers Power Co	12-14-87	B		
ST88-1240	Trunkline Gas Co	Consumers Power Co	12-14-87	B		
ST88-1241	Trunkline Gas Co	Michigan Consolidated Gas Co	12-14-87	B		
ST88-1242	Trunkline Gas Co	Consumers Power Co	12-14-87	B		
ST88-1243	Trunkline Gas Co	Consumers Power Co	12-14-87	B		
ST88-1244	Trunkline Gas Co	Consumers Power Co	12-14-87	B		
ST88-1245	Trunkline Gas Co	Citizens Gas and Coke Utility	12-14-87	B		
ST88-1246	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	12-14-87	B		
ST88-1247	Natural Gas Pipeline Co. of America	Peoples Gas Light & Coke Co	12-14-87	B		
ST88-1248	Tennessee Gas Pipeline Co	Cincinnati Gas and Electric Co	12-16-87	B		
ST88-1249	Valero Interstate Transmission Co	Northern Illinois Gas Co	12-14-87	B		
ST88-1250	Transcontinental Gas Pipe Line Corp	Eastex Gas Transmission Co	12-14-87	B		
ST88-1251	Transcontinental Gas Pipe Line Corp	United Cities Gas Co	12-14-87	B		
ST88-1252	Transcontinental Gas Pipe Line Corp	Eastex Gas Transmission Co	12-14-87	B		
ST88-1253	Transcontinental Gas Pipe Line Corp	Coastal States Gas Transmission Co	12-14-87	B		
ST88-1254	Transcontinental Gas Pipe Line Corp	Atlanta Gas Light Co	12-14-87	B		
ST88-1255	Transcontinental Gas Pipe Line Corp	Pennsylvania Gas and Water Co	12-14-87	B		
ST88-1256	Transcontinental Gas Pipe Line Corp	Pennsylvania Gas and Water Co	12-14-87	B		
ST88-1257	Transcontinental Gas Pipe Line Corp	Commission of Pubic Works, Greenwood	12-14-87	B		
ST88-1258	Transcontinental Gas Pipe Line Corp	Thc Pipeline Co	12-14-87	B		
ST88-1259	Tennessee Gas Pipeline Co	Northwest Alabama Gas District	12-14-87	B		
ST88-1260	Tennessee Gas Pipeline Co	Commonwealth Gas Co	12-14-87	B		
ST88-1261	Tennessee Gas Pipeline Co	Cabot Pipeline Corp	12-14-87	B		
ST88-1262	Tennessee Gas Pipeline Co	Texas Eastern Transmission Corp	12-14-87	G		
ST88-1263	Tennessee Gas Pipeline Co	Brooklyn Union Gas Co., et al	12-14-87	B		
ST88-1264	Tennessee Gas Pipeline Co	Colonial Gas Company	12-14-87	B		
ST88-1265	Tennessee Gas Pipeline Co	Essex County Gas.	12-14-87	B		
ST88-1266	Tennessee Gas Pipeline Co	Fitchburg Gas & Electric Light Co	12-14-87	B		
ST88-1267	Tennessee Gas Pipeline Co	Orange and Rockland Utilities, Inc	12-14-87	B		
ST88-1268	Tennessee Gas Pipeline Co	Coastal States Gas Tramission Co	12-14-87	B		
ST88-1269	Tennessee Gas Pipeline Co	City of Collinwood	12-14-87	B		
ST88-1270	Tennessee Gas Pipeline Co	Southern Connecticut Gas Co	12-14-87	B		
ST88-1271	Tennessee Gas Pipeline Co	NGC Intrastate Pipeline Co	12-14-87	B		
ST88-1272	Tennessee Gas Pipeline Co	Bay State Gas Co	12-14-87	B		
ST88-1273	Tennessee Gas Pipeline Co	Connecticut Light & Power Co	12-14-87	B		
ST88-1274	Northern Border Pipeline Co	Natural Gas Pipeline Co Of America	12-14-87	G		
ST88-1275	Trunkline Gas Co	Transamerican Gas Transmission Corp	12-14-87	B		
ST88-1276	Equitable Gas Co	Columbia Gas of Pennsylvania, Inc	12-11-87	B		
ST88-1277	Equitable Gas Co	Equitable Gas	12-16-87	B		
ST88-1278	El Paso Natural Gas Co	Pacific Gas and Electric Co	12-17-87	B		
ST88-1279	Transcontinental Gas Pipe Line Corp	South Carolina Pipeline Corp	12-16-87	B		
ST88-1280	Transcontinental Gas Pipe Line Corp	Cranberry Pipeline Corp	12-16-87	B		
ST88-1281	Transcontinental Gas Pipe Line Corp	Pennsylvania Gas and Water Co	12-16-87	B		
ST88-1282	Transcontinental Gas Pipe Line Corp	South Carolina Pipeline Corp	12-16-87	B		
ST88-1283	Transcontinental Gas Pipe Line Corp	Atlanta Gas Light Co	12-16-87	B		
ST88-1284	Transcontinental Gas Pipe Line Corp	Pontchartrain Natural Gas System	12-16-87	B		
ST88-1285	Tennessee Gas Pipeline Co	Equitable Gas Co	12-16-87	B		
ST88-1286	Transcontinental Gas Pipe Line Corp	North Carolina Natural Gas Corp	12-16-87	B		
ST88-1287	Transcontinental Gas Pipe Line Corp	Long Island Lighting Co	12-16-87	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date[2]	Transportation rate (¢/MMBTU)
ST88-1288	Transcontinental Gas Pipe Line Corp	Atlanta Gas Light Co	12-16-87	B		
ST88-1289	Transcontinental Gas Pipe Line Corp	City of Winder	12-16-87	B		
ST88-1290	Tennessee Gas Pipeline Co	Southern Connecticut Gas Co	12-16-87	B		
ST88-1291	Tennessee Gas Pipeline Co	City of Alexandria, et al	12-16-87	B		
ST88-1291	Tennessee Gas Pipeline Co					
ST88-1292	Tennessee Gas Pipeline Corp	Southern Indiana Gas & Elect. Co., et al	12-16-87	B		
ST88-1293	Tennessee Gas Pipeline Co	Rochester Gas & Electric Co., et al	12-16-87	B		
ST88-1294	Tennessee Gas Pipeline Co	Nashville Gas Co	12-16-87	B		
ST88-1295	Tennessee Gas Pipeline Co	Pennsylvania Gas and Water Co	12-16-87	B		
ST88-1296	Tennessee Gas Pipeline Co	Berkshire Gs Co., et al	12-16-87	B		
ST88-1297	Natural Gas Pipeline Co of America	Peoples Gas Light & Coke Co., et al	12-17-87	B		
ST88-1298	Natural Gas Pipeline Co of America	Pontchartrain Natural Gas System	12-17-87	B		
ST88-1299	Delhi Gas Pipeline Corp	Natural Gas Pipeline Co of America	12-15-87	C		
ST88-1300	Tennessee Gas Pipeline Co	Southern Connecticut Gas Co	12-15-87	B		
ST88-1301	Tennessee Gas Pipeline Co	Bethlehem Steel Corp	12-15-87	G-S		
ST88-1302	Tennessee Gas Pipeline Co	Dayton Power and Light Co	12-15-87	B		
ST88-1303	Williams Natural Gas Co	Kansas Power and Light Co	12-15-87	G-S		
ST88-1304	Natural Gas Pipeline Co of America	Dow Intrastate Pipeline Co et al	12-17-87	B		
ST88-1305	Tennessee Gas Pipeline Co	East Tennessee Natural Gas Co	12-16-87	G		
ST88-1306	Tennessee Gas Pipeline Co	Western Kentucky Gas Co	12-16-87	B		
ST88-1307	Tennessee Gas Pipeline Co	Channel Industries Gas Co	12-17-87	B		
ST88-1308	Tennessee Gas Pipeline Co	Commonwealth Gas Services	12-17-87	B		
ST88-1309	Tennessee Gas Pipeline Co	ANR Pipeline Co	12-17-87	G		
ST88-1310	Tennessee Gas Pipeline Co	National Fuel Gas Distribution Corp	12-17-87	B		
ST88-1311	ANR Pipeline Co	Michigan Consolidated Gas Co	12-18-87	B		
ST88-1312	ANR Pipeline Co	Columbia Gas of Ohio, Inc	12-18-87	B		
ST88-1313	Columbia Gulf Transmission Co	Columbia Gas of Ohio, Inc., et al	12-18-87	B		
ST88-1314	Transcontinental Gas Pipe Line Corp	South Carolina Pipeline Co., et al	12-18-87	B		
ST88-1315	Transcontinental Gas Pipe Line Corp	Laurel Fuel Co	12-18-87	B		
ST88-1316	Transcontinental Gas Pipe Line Corp	Eastex Gas Transmission Co	12-18-87	B		
ST88-1317	Transcontinental Gas Pipe Line Corp	City of Lawrenceville	12-18-87	B		
ST88-1318	Transcontinental Gas Pipe Line Corp	Lawrenceburg Gas Co., et al	12-18-87	B		
ST88-1319	Transcontinental Gas Pipe Line Corp	Southern Indiana Gas & Electric Co	12-18-87	B		
ST88-1320	Transcontinental Gas Pipe Line Corp	Northern Indiana Public Service Co	12-18-87	B		
ST88-1321	ANR Pipeline Co	Michigan Gas Utilities Co	12-21-87	B		
ST88-1322	El Paso Natural Gas Co	Pacific Gas and Electric Co	12-22-87	B		
ST88-1323	El Paso Natural Gas Co	Pacific Gas and Electric Co	12-18-87	B		
ST88-1324	El Paso Natural Gas Co	Gas Co of NM (Div. Public Serv. Co NM)	12-18-87	B		
ST88-1325	Nueces Co	Mountain Fuel Resources, Inc	12-18-87	C	05-16-88	38
ST88-1326	Texas Eastern Transmission Corp	Public Service Electric and Gas Co	12-18-87	B		
ST88-1327	Texas Eastern Transmission Corp	Gas Utility District of Point Coupee	12-18-87	B		
ST88-1328	Texas Eastern Transmission Corp	Pennsylvania Gas and Water Co	12-18-87	B		
ST88-1329	Texas Eastern Transmission Corp	Philadelphia Electric Co	12-18-87	B		
ST88-1330	Texas Eastern Transmission Corp	Columbia Gas of Ohio, Inc	12-18-87	B		
ST88-1331	Texas Eastern Transmission Corp	Dayton Power and Light Co	12-18-87	B		
ST88-1332	Texas Eastern Transmission Corp	Long Island Lighting Co	12-18-87	B		
ST88-1333	Texas Eastern Transmission Corp	Public Service Electric and Gas Co	12-18-87	B		
ST88-1334	Texas Eastern Transmission Corp	Central Illinois Public Service Co	12-18-87	B		
ST88-1335	Texas Eastern Transmission Corp	Niagara Mohawk Power Corp	12-18-87	B		
ST88-1336	Texas Eastern Transmission Corp	Southern Connecticut Gas Co	12-18-87	B		
ST88-1337	Texas Eastern Transmission Corp	City of Lebanon	12-18-87	B		
ST88-1338	Texas Eastern Transmission Corp	Town of Belmont	12-18-87	B		
ST88-1339	Trunkline Gas Co	Consumers Power Co	12-18-87	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date[2]	Transportation rate (¢/MMBTU)
ST88-1340	Trunkline Gas Co	Battle Creek Gas Co	12-18-87	B		
ST88-1341	Trunkline Gas Co	Consumers Power Co	12-18-87	B		
ST88-1342	Transcontinental Gas Pipe Line Corp	Consumers Power Co	11-30-87	B		
ST88-1343	Transcontinental Gas Pipe Line Corp	Corpus Christi Ind. Pipeline Co., et al	11-30-87	B		
ST88-1344	Transcontinental Gas Pipe Line Corp	South Jersey Gas Co	11-30-87	B		
ST88-1345	Transcontinental Gas Pipe Line Corp	City of Linden—Utility Board	11-30-87	B		
ST88-1346	Transcontinental Gas Pipe Line Corp	North Carolina Natural Gas Corp	11-30-87	B		
ST88-1347	Transcontinental Gas Pipe Line Corp	Washington Gas Light Co	11-30-87	B		
ST88-1348	Transcontinental Gas Pipe Line Corp	North Carolina Gas Service Co	11-30-87	B		
ST88-1349	Transcontinental Gas Pipe Line Corp	Pennsylvania Gas and Water Co	11-30-87	B		
ST88-1350	Transcontinental Gas Pipe Line Corp	Atlanta Gas Light Co	11-30-87	B		
ST88-1351	Transcontinental Gas Pipe Line Corp	Louisiana Natural Gas Pipeline, Inc	11-30-87	B		
ST88-1352	Transcontinental Gas Pipe Line Corp	Public Service Electric and Gas Co	11-30-87	B		
ST88-1353	Transcontinental Gas Pipe Line Corp	Public Service Electric and Gas Co	11-30-87	B		
ST88-1354	Transcontinental Gas Pipe Line Corp	Alabama Gas Corp, et al.	11-30-87	B		
ST88-1355	Transcontinental Gas Pipe Line Corp	Public Service Co of N. Carolina	11-30-87	B		
ST88-1356	Transcontinental Gas Pipe Line Corp	Public Service Co of N. Carolina	11-30-87	B		
ST88-1357	Transcontinental Gas Pipe Line Corp	Louisiana Gas Marketing Co	11-30-87	B		
ST88-1358	Trunkline Gas Co	Consumers Power Co	12-18-87	B		
ST88-1359	Trunkline Gas Co	Consumers Power Co	12-18-87	B		
ST88-1360	Trunkline Gas Co	Consumers Power Co	12-18-87	B		
ST88-1361	Trunkline Gas Co	Consumers Power Co	12-18-87	B		
ST88-1362	United Texas Transmission Co	Transcontinental Gas Pipe Line Corp	12-18-87	C		
ST88-1363	Tennessee Gas Pipeline Co	UCG Emergy Corp	12-18-87	B		
ST88-1364	Tennessee Gas Pipeline Co	North Alabama Gas District	12-22-87	B		
ST88-1366	Tennessee Gas Pipeline Co	Cincinnati Gas & Elect. Co., et al	12-22-87	B		
ST88-1367	Colorado Interstate Gas Co	Public Service Co. of Colorado	12-17-87	B		
ST88-1368	Colorado Interstate Gas Co	Public Service Co. of Colorado	12-17-87	B		
ST88-1369	Enogex Inc	El Paso Natural Gas Co	12-18-87	C	05-16-88	28.50
ST88-1370	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	12-18-87	B		
ST88-1371	Natural Gas Pipeline Co. of America	Reliance Pipeline Co	12-18-87	B		
ST88-1372	Tennessee Gas Pipeline Co	Southern Gas Co	12-18-87	B		
ST88-1373	El Paso Natural Gas Co	Southern California Gas Co	12-21-87	B		
ST88-1374	El Paso Natural Gas Co	Lovera Pipeline Co	12-21-87	B		
ST88-1375	El Paso Natural Gas Co	Coastal States Gas Transmission Co	12-21-87	B		
ST88-1376	El Paso Natural Gas Co	Southwest Gas Corp	12-21-87	B		
ST88-1377	El Paso Natural Gas Co	Southwest Gas Corp	12-21-87	B		
ST88-1378	El Paso Natural Gas Co	Pacific Gas and Electric Co	12-21-87	B		
ST88-1379	Delhi Gas Pipeline Corp	Texas Gas Transmission Corp	12-21-87	C		
ST88-1380	Delhi Gas Pipeline Corp	Transcontinental Gas Pipe Line Corp	12-21-87	C		
ST88-1381	Delhi Gas Pipeline Corp	Transwestern Pipeline Co	12-21-87	C		
ST88-1382	Delhi Gas Pipeline Corp	Transwestern Pipeline Co	12-21-87	C		
ST88-1383	Delhi Gas Pipeline Corp	Natural Gas Pipeline Co. of America	12-21-87	C		
ST88-1384	Delhi Gas Pipeline Corp	Panhandle Eastern Pipe Line Co	12-21-87	C		
ST88-1385	Mountain Fuel Resources, Inc	Mountain Fuel Supply Co	12-21-87	B		
ST88-1386	Mountain Fuel Resources, Inc	Mountain Fuel Supply Co	12-21-87	B		
ST88-1387	Natural Gas Pipeline Co. of America	Northern Indiana Public Service Co	12-21-87	B		
ST88-1388	Panhandle Eastern Pipe Line Co	Michigan Consolidated Gas Co	12-21-87	B		
ST88-1389	Panhandle Eastern Pipe Line Co	Public Service Co. of Colorado	12-21-87	B		
ST88-1390	Panhandle Eastern Pipe Line Co	Kansas Gas Supply Corp	12-21-87	B		
ST88-1391	Panhandle Eastern Pipe Line Co	Kansas Gas Supply Corp	12-21-87	B		
ST88-1392	Tennessee Gas Pipeline Co	Public Service Elec. & Gas Co., et al	12-21-87	B		
ST88-1393	Tennessee Gas Pipeline Co	Hoosier Gas Corp	12-21-87	B		
ST88-1394	ANR Pipeline Co	Columbia Gas of Kentucky, Inc	12-23-87	B		
ST88-1395	ANR Pipeline Co	Columbia Gas of Virginia, Inc	12-23-87	B		
ST88-1396	ANR Pipeline Co	TPC Pipeline Co	12-23-87	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBTU)
ST88-1397	ANR Pipeline Co	Columbia Gas of New York, Inc	12-23-87	B		
ST88-1398	ANR Pipeline Co	Columbia Gas of Maryland, Inc	12-23-87	B		
ST88-1399	ANR Pipeline Co	Iowa-Illinois Gas & Electric Co	12-23-87	B		
ST88-1400	El Paso Natural Gas Co	Pacific Gas and Electric Co	12-23-87	B		
ST88-1401	El Paso Natural Gas Co	Phillips Natural Gas Co	12-23-87	B		
ST88-1402	El Paso Natural Gas Co	Phillips Natural Gas Co	12-23-87	B		
ST88-1403	Sea Robin Pipeline Co	Gulf South Pipeline Co., et al	12-23-87	B		
ST88-1404	Tennessee Gas Pipeline Co	Eastex Gas Transmission Co	12-23-87	B		
ST88-1405	Tennessee Gas Pipeline Co	Gulf Coast Energy, Inc	12-23-87	B		
ST88-1406	Transcontinental Gas Pipe Line Corp	Baltimore Gas & Electric Co., et al	12-23-87	B		
ST88-1407	Transcontinental Gas Pipe Line Corp	TPC Pipeline Co	12-23-87	B		
ST88-1408	Transcontinental Gas Pipe Line Corp	Baltimore Gas & Electric Co., et al	12-23-87	B		
ST88-1409	Transwestern Pipeline Co	Southern California Gas Co	12-23-87	B		
ST88-1410	Transwestern Pipeline Co	Southern California Gas Co	12-23-87	B		
ST88-1411	Transwestern Pipeline Co	Southern California Gas Co	12-23-87	B		
ST88-1412	United Gas Pipe Line Co	Wellhead Ventures Corp	12-23-87	B		
ST88-1413	Valero Transmission, L.P	El Paso Natural Gas Co	12-23-87	B		
ST88-1414	Valero Transmission, L.P	Natural Gas Pipeline Co. of America	12-23-87	C		
ST88-1415	Valero Transmission, L.P	Texas Eastern Transmission Corp	12-23-87	C		
ST88-1416	Valero Transmission, L.P	Natural Gas Pipeline Co. of America	12-23-87	C		
ST88-1417	Valero Transmission, L.P	Natural Gas Pipleline Co. of America	12-23-87	C		
ST88-1418	Valero Transmission, L.P	Natural Gas Pipeline Co. of America	12-23-87	C		
ST88-1419	Columbia Gas Transmission Co	North Atlantic Utilities, Inc	12-23-87	G-S		
ST88-1420	Transcontinental Gas Pipe Line Corp	Bridgeline Gas Distribution Co	12-23-87	B		
ST88-1421	Transok, Inc		12-16-87	C	05-14-88	37.13
ST88-1422	Channel Industries Gas Co	Natural Gas Pipeline Co. of America	12-24-87	C		
ST88-1423	Houston Pipe Line Co	Trunkline Gas Co	12-28-87	C		
ST88-1424	Houston Pipe Line Co	Northern Natural Gas Co	12-28-87	C		
ST88-1425	Houston Pipe Line Co	Piedmont Natural Gas Co	12-28-87	C		
ST88-1426	Houston Pipe Line Co	Florida Gas Transmission Co	12-28-87	C		
ST88-1427	Houston Pipe Line Co	United Gas Pipe Line Co	12-28-87	C		
ST88-1428	Houston Pipe Line Co	Enron Industrial Natural Gas Co	12-28-87	C		
ST88-1429	Houston Pipe Line Co	Texas Eastern Transmission Corp	12-28-87	C		
ST88-1430	Houston Pipe Line Co	Westar Transmission Co	12-28-87	C		
ST88-1431	Houston Pipe Line Co	Natural Gas Pipeline Co. of America	12-28-87	C		
ST88-1432	Houston Pipe Line Co	Northern Natural Gas Co	12-28-87	C		
ST88-1433	Houston Pipe Line Co	Petrofina Gas Pipeline Co	12-28-87	C		
ST88-1434	Houston Pipe Line Co	Texas Eastern Transmission Corp	12-28-87	C		
ST88-1435	Oasis Pipe Line Co	Westar Transmission Co	12-28-87	C		
ST88-1436	Oasis Pipe Line Co	Northern Natural Gas Co	12-28-87	C		
ST88-1437	Oasis Pipe Line Co	Transwestern Pipeline Co	12-28-87	C		
ST88-1438	Oasis Pipe Line Co	Pacific Gas and Electric Co	12-28-87	C		
ST88-1439	Oasis Pipe Line Co	Southern California Gas Co	12-28-87	C		
ST88-1440	Acadian Gas Pipeline System	Transcontinental Gas Pipe Line Corp	12-28-87	C	05-26-88	15.50
ST88-1441	Acadian Gas Pipeline System	Texas Eastern Transmission Corp	12-28-87	C	05-26-88	15.50
ST88-1442	Colorado Interstate Gas Co	Public Service Co. of Colorado	12-28-87	B		
ST88-1443	Colorado Interstate Gas Co	Public Service Co. of Colorado	12-28-87	B		
ST88-1444	Colorado Interstate Gas Co	Central Illinois Light Co	12-28-87	B		
ST88-1445	El Paso Natural Gas Co	GGSI Gas Co	12-29-87	B		
ST88-1446	Panhandle Eastern Pipe Line Co	Michigan Gas Utilities Co	12-29-87	B		
ST88-1447	Panhandle Eastern Pipe Line Co	Columbia Gas of Ohio, Inc	12-29-87	B		
ST88-1448	Panhandle Eastern Pipe Line Co	Northern Indiana Public Service Co	12-29-87	B		
ST88-1449	Panhandle Eastern Pipe Line Co	Union Electric Co	12-29-87	B		
ST88-1450	Panhandle Eastern Pipe Line Co	Union Electric Co	12-29-87	B		
ST88-1451	Panhandle Eastern Pipe Line Co	City of Stonington	12-29-87	B		
ST88-1452	Panhandle Eastern Pipe Line Co	Village of Morton Gas Co	12-29-87	B		
ST88-1453	Panhandle Eastern Pipe Line Co	Kansas Pipeline Co., L.P	12-29-87	B		
ST88-1454	Panhandle Eastern Pipe Line Co	Battle Creek Gas Co	12-29-87	B		
ST88-1455	Panhandle Eastern Pipe Line Co	City of Shelbina	12-29-87	B		
ST88-1456	Panhandle Eastern Pipe Line Co	Battle Creek Gas Co	12-29-87	B		
ST88-1457	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	12-29-87	B		
ST88-1458	Panhandle Eastern Pipe Line Co	Yankee Pipeline Co	12-29-87	B		
ST88-1459	Panhandle Eastern Pipe Line Co	Union Electric Co	12-29-87	B		
ST88-1460	Panhandle Eastern Pipe Line Co	Central Illinois Public Service Co	12-29-87	B		
ST88-1461	Panhandle Eastern Pipe Line Co	Central Illinois Public Service Co	12-29-87	B		
ST88-1462	Panhandle Eastern Pipe Line Co	Yankee Pipeline Co	12-29-87	B		
ST88-1463	Texas Gas Transmission Corp	Northern Illinois Gas Co	12-29-87	B		
ST88-1464	Texas Gas Transmission Corp	Northern Illinois Gas Co	12-29-87	B		
ST88-1465	Texas Gas Transmission Corp	Hope Gas, Inc	12-29-87	B		
ST88-1466	Texas Gas Transmission Corp	East Ohio Gas Co	12-29-87	B		
ST88-1467	Texas Gas Transmission Corp	TPC Pipeline Co	12-29-87	B		
ST88-1468	Texas Gas Transmission Corp	TPC Pipeline Co	12-29-87	B		
ST88-1469	ANR Pipeline Co	Wisconsin Public Service Co	12-30-87	B		
ST88-1470	ANR Pipeline Co	West Ohio Gas Co	12-30-87	B		
ST88-1471	ANR Pipeline Co	Wisconsin Natural Gas Co	12-30-87	B		
ST88-1472	ANR Pipeline Co	Ohio Gas Co	12-30-87	B		
ST88-1473	ANR Pipeline Co	Ilano, Inc	12-30-87	B		
ST88-1474	ANR Pipeline Co	Madison Gas & Electric Co	12-30-87	B		
ST88-1475	ANR Pipeline Co	Northern Indiana Public Service Co	12-30-87	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date[2]	Transportation rate (¢/MMBTU)
ST88-1476	Northern Natural Gas Co	Minnegasco, Inc	12-30-87	B		
ST88-1477	Northern Natural Gas Co	Concorde Energy, Inc	12-30-87	B		
ST88-1478	Northern Natural Gas Co	Northern Illinois Gas Co	12-30-87	B		
ST88-1479	ANR Pipeline Co	Michigan Gas Co	12-30-87	B		
ST88-1480	El Paso Natural Gas Co	Southern California Gas Co	12-31-87	B		
ST88-1481	Natural Gas Pipeline Co. of America	Northern Illinois Gas Co	12-31-87	B		
ST88-1482	Natural Gas Pipeline Co. of America	Peoples Gas Light & Coke Co	12-31-87	B		
ST88-1483	Natural Gas Pipeline Co. of America	North Shore Gas Co	12-31-87	B		
ST88-1484	Natural Gas Pipeline Co. of America	Columbia Gas of MD, Inc., et al.	12-31-87	B		
ST88-1485	Natural Gas Pipeline Co. of America	United Texas Transmission Co	12-31-87	B		
ST88-1486	Natural Gas Pipeline Co. of America	Illinois Power Co	12-31-87	B		
ST88-1487	Tennessee Gas Pipeline Co	Bishop Pipeline Corp	12-31-87	B		
ST88-1488	Trunkline Gas Co	Consumers Power Co	12-31-87	B		
ST88-1489	Trunkline Gas Co	Consumers Power Co	12-31-87	B		
ST88-1490	Trunkline Gas Co	Battle Creek Gas Co	12-31-87	B		
ST88-1491	Trunkline Gas Co	Consumers Power Co	12-31-87	B		
ST88-1492	Trunkline Gas Co	Battle Creek Gas Co	12-31-87	B		
ST88-1493	Trunkline Gas Co	Battle Creek Gas Co	12-31-87	B		
ST88-1494	Trunkline Gas Co	Consumers Power Co	12-31-87	B		
ST88-1495	Trunkline Gas Co	Humble Gas System, Inc	12-31-87	B		
ST88-1496	Trunkline Gas Co	Consumers Power Co	12-31-87	B		
ST88-1497	Trunkline Gas Co	Consumers Power Co	12-31-87	B		
ST88-1498	Trunkline Gas Co	Consumers Power Co	12-31-87	B		
ST88-1499	Trunkline Gas Co	Consumers Power Co	12-31-87	B		
ST88-1500	Trunkline Gas Co	Consumers Power Co	12-31-87	B		
ST88-1501	Trunkline Gas Co	Battle Creek Gas Co	12-31-87	B		
ST88-1502	Trunkline Gas Co	Southern Michigan Gas Co., et al	12-31-87	B		
ST88-1503	Trunkline Gas Co	Columbia Gas of PA, Inc., et al.	12-31-87	B		
ST88-1504	Trunkline Gas Co	Consumers Power Co	12-31-87	B		
ST88-1505	Trunkline Gas Co	Consumers Power Co	12-31-87	B		
ST88-1506	United Texas Transmission Co	Tennessee Gas Pipeline Co	12-31-87	C		
ST88-1507	United Texas Transmission Co	Tennessee Gas Pipeline Co	12-31-87	C		
ST88-1508	United Texas Transmission Co	Natural Gas Pipeline Co of America	12-31-87	C		
ST88-1509	United Texas Transmission Co	Tennessee Gas Pipeline Co	12-31-87	C		
ST88-1510	Northern Natural Gas Co	Minnegasco, Inc	12-31-87	B		
ST88-1511	Northern Natural Gas Co	Tennessee Gas Pipeline Co	12-31-87	G		
ST88-1512	Northern Natural Gas Co	Peninsular Gas Co	12-31-87	B		
ST88-1513	Northern Natural Gas Co	Natural Gas Pipeline Co. of America	12-31-87	G		
ST88-1514	Northern Natural Gas Co	ANR Pipeline Co	12-31-87	G		
ST88-1515	Northern Natural Gas Co	Cascade Municipal Utilities	12-31-87	B		
ST88-1516	Northern Natural Gas Co	Houston Pipe Line Co	12-31-87	B		
ST88-1517	Northern Natural Gas Co	Midwest Natural Gas Co., Inc	12-31-87	B		
ST88-1518	Northern Natural Gas Co	Channel Industries Gas Co	12-31-87	B		
ST88-1519	Northern Natural Gas Co	Northern Illinois Gas Co	12-31-87	B		
ST88-1520	Northern Natural Gas Co	NGC Intrastate Pipeline Co	12-31-87	B		
ST88-1521	Northern Natural Gas Co	Watertown Municipal Utility	12-31-87	B		
ST88-1522	Northern Natural Gas Co	Northern States Power Co	12-31-87	B		
ST88-1523	Northern Natural Gas Co	City of Duluth	12-31-87	B		
ST88-1524	Northern Natural Gas Co	Austin Utility Dept	12-31-87	B		
ST88-1525	Northern Natural Gas Co	Peoples Natural Gas Co	12-31-87	B		
ST88-1526	Northern Natural Gas Co	Northern States Power Co. Of Wisconsin	12-31-87	B		
ST88-1527	Northern Natural Gas Co	Madison Gas & Electric Co	12-31-87	B		
ST88-1528	Northern Natural Gas Co	ANR Pipeline Co	12-31-87	G		

[1] Notice of transaction does not constitute a determination that filings comply with commission regulations in accordance with No. 436 (Final rule and notice requesting supplemental comments, 50 FR 42,372, 10/18/85).

[2] The Intrastate pipeline has sought commission approval of its transportation rate pursuant to § 284.123(B)(2) of the commission's regulations (18 CFR 284.123(B)(2)). Such rates are deemed fair and equitable if the commission does not take action by the date indicated.

[FR Doc. 88-2822 Filed 2-9-88; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP86-704-001]

Florida Gas Transmission Corp; Phase II Pipeline Project Notice of Intent To Prepare an Environmental Assessment and Request for Comments on Its Scope

February 4, 1988

Proposed Action

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC) will prepare an environmental assessment (EA) on the facilities proposed in the above-referenced docket. On October 30, 1987, Florida Gas Transmission Company (FGT), applied to the FERC for a certificate of public convenience and necessity, under section 7 of the Natural Gas Act, to construct 179.7 miles of interstate gas transmission pipeline, and 33,625 horsepower of compression at 11 existing and 2 proposed compressor stations. Seventy percent of the proposed pipeline would be adjacent to existing FGT pipelines; the remainder would be new lateral pipelines near or in the cities of Ocala, Tampa, Auburndale, and St. Petersburg, Florida. The locations of the project are identified in tables 1 and 2. The route maps [1] are not published in the **Federal Register**, but are included with copies of the notice distributed by the Commission to parties in the proceeding, Federal, state and local government agencies, and interested members of the public.

[1] Route maps are available from the FERC's Division of Program Management, Public Reference Section, telephone (202) 357-8118

Presently, FGT's system can transport 825 million cubic feet of gas per day. According to FGT, the proposed facilities are necessary to transport an additional 100 million cubic feet per day for residential, commercial, and industrial customers. The total cost of the project is expected to be $103,385,000.

TABLE 1.—HORSEPOWER (HP) ADDITIONS TO SYSTEM

Project	HP	Compressor station	State, county
Additions to existing stations.	2,000	9	LA, Washington.
	2,000	10	MS, Perry.
	2,000	11	AL, Mobile.
	4,000	12	FL, Santa Rosa.
	2,000	13	FL, Washington.
	2,000	14	FL, Gadsden.
	4,000	15	FL, Taylor.
	4,000	16	FL, Bradford.
	2,000	17	FL, Marion.
	2,000	18	FL, Orange.
	2,000	20	FL, St. Lucie.
New compressor stations.	625	33	FL, Polk.
Total	33,625	.....	

TABLE 2.—PIPELINE ADDITIONS TO SYSTEM

Project name	Miles	Diameter (inches)	State, county
Panama City Loop.	16.5	8	FL, Bay.
	4.5	8	FL, Bay.
Basic Magnesia Loop.	16.0	8	FL, Gulf.
	0.1	6	FL, Bay.
Lake City Loop	8.0	4	FL, Columbia.
Ocala Lateral (New).	22.3	8	FL, Marion.
Reedy Creek Lateral (New).	6.4	6	FL, Orange.
St. Petersburg Loop 1.	28.2	20	FL, Osceola, Polk & Orange.
St. Petersburg Loop 2.	15.7	16	FL, Hillsborough & Polk.
Tampa Lateral Interconnect (New).	10.6	6	FL, Hillsborough.
Sarastoa Lateral (New).	13.9	16	FL, Polk.
Auburndale Loop.	1.3	6	FL, Polk.
Lake Wales Loop.	1.9	4	FL, Polk.
Port Everglades Lateral (New).	5.4	16	FL, Broward.
Marianna Loop	10.0	4	FL, Jackson.
Lessburg Loop	12.1	6	FL, Lake.
Deland Loop	0.7	6	FL, Volusia.
Cape Canaveral Loop.	3.3	12	FL, Brevard.
OVC/Titusville Loop.	1.8	8	FL, Brevard.

Current Issues

By this notice, the staff of the FERC is requesting public comments on the environmental matters that should be addressed in its EA on the proposal. The EA will be used to determine whether the project constitutes a major Federal action significantly affecting the quality of the human environment. It may also contain staff recommendations to the Commission regarding measures to reduce or avoid impact on the environment. The EA will address the following issues; any additional issues will be considered based on further staff review or public comments.

Land Use—effect of the right-of-way location and width on existing and future uses of land including residential areas crossed.

Restoration—erosion control, revegetation, soil productivity after construction.

Aesthetics—visual impact of the right-of-way and new compressor stations.

Vegetation and Wildlife—impact on wetlands, fisheries, threatened or endangered species, and habitat.

Geology—evaluation of potential geologic hazards, including sinkholes.

Cultural resources—potential for impact on historic properties and cultural artifacts.

Air and Noise—impact of additional compression on air quality and noise levels.

Alternatives—pipeline route variations and alternative system designs.

All interested parties will receive a copy of and be invited to comment on the EA.

Location and Land Requirements

About 121 miles of the proposed pipeline would parallel existing FGT pipelines. The width of the existing pipeline rights-of-way vary from 20 feet to an undefined easement. The 59 miles of pipeline that would not be adjacent to existing FGT rights-of-way would parallel electric transmission rights-of-way and roads, or would require a new right-of-way. FGT proposes to use 75 feet of temporary right-of-way for construction and a total of 50 feet of permanent right-of-way to maintain the pipeline for both parallel loops and new pipelines.

In some areas, residential and commercial areas would be crossed by the pipeline laterals. Principally these areas are in the Florida cities of Panama City, Ocala, Orange City, St. Petersburg, Gibsonia, Tampa, Grand Island, Auburndale, and Ft. Lauderdale. Homeowners in these areas will be sent a copy of this notice. A number of water crossings would be involved. The most significant of these water crossings would include Hillsborough Bay (3.1 miles), Oklocknee River (125 feet), Intracoastal Waterway (175 feet), and the Bayou George Creek (300 feet). Up to 18 miles of wetlands may also be affected by pipeline construction.

Construction Procedures

FGT proposes to have the facilities in-service by January 1989. Constructing the pipeline would involve the following procedures:

1. The right-of-way would be cleared and graded.

2. The trench would be excavated and the spoil would be stockpiled along one side of the right-of-way.

3. Forty-foot sections of pipe would be placed along the trench, the pipe would be bent to fit the trench contour, and the sections welded together.

4. The pipeline would be lowered into the ditch.

5. The ditch would be backfilled, the pipeline would be tested for leaks using pressurized water, and the right-of-way would be cleaned up.

During construction, FGT would use hay bales and silt curtains to control sediment at stream crossings. Periods of high flow would be avoided, and streambeds would be protected by temporary supporting materials such as rock where vehicles must cross. For general overland construction, FGT is developing its erosion control and revegetation procedures in consultation with the U.S.D.A. Soil Conservation Service. These plans will be evaluated in the EA. For residential properties, FGT plans to seed or sod the disturbed areas to match the surrounding conditions. Watering during lawn establishment will be the landowner's responsibility as provided for in the right-of-way easement. FGT will provide other details of its plans for environmental mitigation, such as special construction techniques for residential areas and noise abatement at compressor stations, for the staff's evaluation in the EA.

Comments and Scoping Procedure

The EA will be based on the staff's independent analysis of the proposal and, together with the comments received, will comprise part of the record to be considered by the Commission in this proceeding. The EA will be sent to all parties in this proceeding, to those providing comments in response to this notice, to Federal and state agencies, and to interested members of the public. The EA may be offered as evidentiary material if an evidentiary hearing is held in this proceeding. In the event that an evidentiary hearing is held, anyone not previously a party to this proceeding and wishing to present evidence on environmental or other matters must first file with the Commission a motion to intervene, pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214).

A copy of this notice and request for comments has been distributed to Federal, state, and local environmental agencies, parties in the proceeding, and the public. Comments on the scope of the EA should be filed as soon as possible, but no later than March 7, 1988. All written comments must reference Docket No. CP86-704-001 and be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, DC 20426. All comments on specific environmental issues should contain supporting documentation or rationale.

Cooperating agencies are encouraged to participate in the scoping process and to provide information to the lead agency. Cooperating agencies are also welcome to suggest modifications to format and content to meet agency requirements; however, the FERC will determine the modifications that will be adopted based on production constraints.

Additional information about the proposal, including detailed route maps for specific locations, is available from Mr. Cary Secrest, Project Manager, Environmental Analysis Branch, Office of Pipeline and Producer Regulation, telephone (202) 357-9048.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-2821 Filed 2-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-53-000]

ANR Pipeline Co.; Petition

February 4, 1988.

Take notice that on January 29, 1988, ANR Pipeline Company ("ANR"), 500 Renaissance Center, Detroit, Michigan 48243 ("Applicant"), filed in Docket No. RP88-53-000 a "Petition For Waiver of Tariff Provisions" pursuant to Rule 207 of the Federal Energy Regulatory Commission's ("Commission") Regulations.

ANR seeks waiver of section 1.(a) of Rate Schedule SGS-1, which Rate Schedule is part of ANR's F.E.R.C. Gas Tariff, Original Volume No. 1. As set forth more fully in the Petition, grant of the petition will allow ANR to waive the full requirements provision of its SGS-1 Rate Schedule where ANR undertakes transportation service for its sales customers served under that Rate Schedule.

Copies of this filing have been served on all of ANR's sales customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 11, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-2823 Filed 2-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-2-21-000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 4, 1988.

Take notice that Columbia Gas Transmission Corporation (Columbia) on January 29, 1988, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective March 1, 1988:

One hundred and twenty-third Revised Sheet No. 16
Thirteenth Revised Sheet No. 16A2
Fiftieth Revised Sheet No. 64

Columbia states that the sales rates set forth on One hundred and twenty-third Revised Sheet No. 16 reflect an overall increase of 47.36¢ per Dth in the Commodity rate, an overall increase of $.186 per Dth in the Demand-1 rate and a decrease of 4.04¢ per Dth in the Demand-2 rate. These rates are comprised of the following:

(1) A Current Purchased Gas Cost Adjustment applicable to Sales Rate Schedules;

(2) Unrecovered Purchased Gas Cos Surcharges proposed to be effective during the 12-month period ending February 28, 1989; and

(3) A surcharge adjustment to provide for the recovery, over the 12-month period ending February 28, 1989, of carrying charges related to take-or-pay reimbursements billed by Panhandle Eastern Pipe Line Company and Tennessee Gas Pipeline Company pursuant to Commission approved settlements in Docket Nos. RP83-5-000 and RP83-8-000, respectively.

Columbia states that the transportation rates set forth on Thirteenth Revised Sheet No. 16A2 reflect an increase in the Fuel Charge component of 1.28 cents per Dth.

Columbia states that the filing includes 15.74 cents per Dth of contract reformation costs in its commodity rate, in accordance with the Commission's order of May 8, 1987 in Docket No. RP87-55. At the Commission's Sunshine Meeting of January 27, 1988, the Commission voted to issue an order which rejected Columbia's proposed filing in Docket No. RP88-43, to recover 50 percent of its contract reformation costs attributable to periods subsequent to April 1, 1987 through a demand surcharge, pursuant to Commission Order No. 500. Such rejection was without prejudice to Columbia refiling to recover under the Order No. 500 passthrough mechanism reformation costs that have not been previously disallowed. Columbia presently intends to refile its Order No. 500 proposal in the manner suggested by the Commission, reserving its rights to make additional Order No. 500 filings. Columbia reserves the right to eliminate the 15.74 cents from its commodity rate at such time as its refiled Order No. 500 proposal becomes effective.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 11, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-2824 Filed 2-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-51-000]

Northern Natural Gas Co.; Petition for Limited Waiver

February 4, 1988.

Take notice that on January 26, 1988, Northern Natural Gas Company, Division of Enron Corp. (Northern) requested that the Commission grant to Northern a limited waiver of § 154.302(j) of the Commission's regulations implemented by Order No. 483 (41 FERC ¶ 61,162 (1987)) and a waiver of such other Commission regulations as may be appropriate to permit it to flow through its Purchase Gas Adjustment (PGA) clause the costs of ethane and/or an ethane mixture (hereafter referred to as ethane) purchased by Northern and injected into its system supply during a period commencing February 1, 1988 and extending through April 1989.

Northern states that it will purchase ethane only when it is economically prudent to do so based on a consideration of the price of alternate supplies, dependability of the supply, and time required to deliver the supplies to the market. Northern states that it is not anticipated that such ethane purchases will involve any changes or additions to its facilities.

Any person desiring to be heard or to protest this petition should file a motion to intervene or protest in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure. All motions to intervene or protests should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, on or before February 12, 1988. All such protests will be considered by the Commission but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene in accordance with Rule 214. Copies of the petition filed in this proceeding are on file with the Commission and available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-2825 Filed 2-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-103-005]

Panhandle Eastern Pipe Line Co.; Compliance Filing

February 4, 1988

Take notice that on January 29, 1988 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing certain tariff sheets.

Panhandle states that these revised tariff sheets to be effective March 1, 1988 reflect (1) compliance with Ordering Paragraphs C and E of the Commission's Order dated September 30, 1987; (2) compliance with Ordering Paragraphs A and B of the Commission's Order dated December 31, 1987; (3) inclusion of the Annual Charge Adjustment (ACA) pursuant to the Commission's Orders in Docket Nos. RP87-95-002 and 003; (4) the current GRI Funding Unit Adjustment effective January 1, 1988 as approved in Docket No. TA88-2-28-000; and (5) conforming changes to Rate Schedule PT pursuant to the requirements of the Commission's Opinion No. 275 and Order of June 4, 1987 and Ordering Paragraph B of the Commission's Order of August 5, 1987 in Docket No. CP86-232-011 and the Stipulation and Agreement as approved by the Commission's November 17, 1987 Order in Docket No. RP86-116-013, et al.

Panhandle states that the filings of these revised tariff sheets which satisfies the requirements of the Commission's Orders dated Spetember 30, 1987 and December 31, 1987 in this proceeding and the Commission's Order dated November 16, 1987 in Docket No. RP87-95-002, is without prejudice to Panhandle's rights on rehearing or in any judicial review proceeding or its position in this proceeding.

Copies of this letter and enclosures are being served on all jurisdictional customers, interested state commissions and all parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before February 11, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-2826 Filed 2-9-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP88-158-000]

Sebring Gas System, Applicant, and Florida Gas Transmission Co. Respondent; Application

February 4, 1988.

Take notice that on January 6, 1988, Sebring Gas System, a Division of Coker Fuel, Inc. (Applicant), 3515 U.S. Hwy. 27S, Sebring, Florida 33825, filed in Docket No. CP88-158-000 an application pursuant to section 7(a) of the Natural Gas Act for an order directing Florida Gas Transmission Company (FGT) to sell to Applicant up to 2,900 therms equivalent of natural gas per day and 600,000 therms equivalent of natural gas per year, for resale and distribution to approximately 1,400 high priority users in Sebring, Florida, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states it currently owns and operates a liquefied petroleum gas distribution system which has experienced problems during the winter heating seasons and uncertainties in the supply of propane gas required for Applicant to provide continuing reliable service to its existing market, which utilizes gas for cooking, heating and other human needs. Applicant states that because natural gas is less expensive and it provides a more secure source of supply, the public interest will be served by the conversion of its system to natural gas.

Applicant explains that at the present time FGT sells and delivers gas at its Avon Park, Florida metering station to the Sebring Utilities Commission (Utilities) for consumption in Utilities' power plant in Sebring, Florida, which Utilities transports to its plant through a 10-mile, 6-inch pipeline. It is asserted that Applicant and Utilities have entered into an agreement whereby Utilities would receive gas from FGT for Applicant and would transport such gas for redelivery to Applicant at one or more points on Utilities' pipeline.

Estimated requirements during the third year of service are 2,820 therms equivalent of natural gas per day and 479,235 therms equivalent of natural gas per year. Applicant states it would construct meters and other necessary facilities and pipeline to connect its

existing distribution system to Utilities' pipeline. Applicant states that the total estimated cost of construction is $180,000, for which it has arranged a line of credit. Applicant asserts that as a result of this arrangement no new facilities would be required to be constructed by FGT.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 4, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Applicant states that it has served the Respondent. Respondent's reply shall be due on or before March 4, 1988.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-2827 Filed 2-9-88; 8:45 am]

BILLING CODE 6717-01-M

Officer of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the procedures for disbursement of $130.5 million, plus accrued interest, in alleged crude oil violation amounts obtained from 111 firms. The OHA has determined that the funds will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986).

DATE AND ADDRESS: Applications for refund must be filed by June 30, 1988, and should be addressed to: Subpart V Crude Oil Overcharge Refunds, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Roger Klurfeld, Assistant Director, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-2094 (Mann); 586-2383 (Klurfeld).

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decisions sets forth the final procedures that the DOE has formulated to distribute crude oil overcharge funds obtained from 111 firms, listed in Appendix B to the Decision, from judicial and administrative proceedings involving alleged crude oil violations. The funds are being held in an interest-bearing escrow account pending distribution by the DOE.

The OHA has decided to distributed these funds in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986). Under the Modified Policy, crude oil overcharge monies are divided among the states, the federal government, and injured purchasers of refined products. Refunds to the states will be distributed in proportion to each state's consumption of petroleum products during the period of price controls. Refunds to eligible purchasers will be based on the number of gallons of petroleum products which they purchased and the extent to which they can demonstrate injury.

Applications for refund must be filed by June 30, 1988, and should be sent to the address set forth at the beginning of this notice. The information which claimants should include in their applications is explained in the Decision, which immediately follows. Any claimant that has already filed a crude oil refund application need not file again.

Dated: February 4, 1988.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order—Implementation of Special Refund Procedures

February 4, 1988.

Names of Cases: Ernest E. Allerkamp and Cases Listed in Appendix A

Dates of Filing: May 12, 1987, *et al.*

Case Numbers: KFX-0033, *et al.*

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special refund procedures. 10 CFR 205.281. These procedures are used to refund monies to those injured by actual or alleged violations of the DOE price regulations.

The ERA has filed 111 Petitions for the Implementation of Special Refund Procedures for crude oil overcharge funds obtained from the 111 firms whose names and OHA case numbers appear in Appendix B to this Decision.[1] To date, these 111 firms have remitted a total of $130.5 million to the DOE pursuant to court-approved settlements, DOE consent orders or remedial order.[2] An addtional $71.3 million in interest has accrued on that amount as of December 31, 1987. This Decision and Order establishes procedures for distributing those funds.

The general guidelines which the OHA may use to formulate and implement a plan to distribute refunds are set forth in 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE cannot readily identify the person who may have been injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, see *Office of Enforcement,* 9 DOE ¶ 82,508 (1981), and *Office of Enforcement,* 8 DOE ¶ 82,597 (1981). We have considered the ERA's requests to implement Subpart V procedures with respect to the monies received from the 111 firms listed in Appendix B and have

[1] Of those 111 Petitions, 94 were the subject of Final Decisions and Orders that were issued by the OHA prior to the implementation of the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986) (hereinafter referred to as the "MSRP"). The MSRP represents a major change in the Department's handling of crude oil overcharge cases. Accordingly, as discussed below, we are establishing revised procedures, pursuant to the MSRP, to distribute the crude oil violation amounts involved in those cases. In addition, we are including in this determination four ERA Petitions for which procedures were proposed but never finalized. Finally, we are also including 13 ERA Petitions on which no action had been taken prior to the Allerkamp PD&O. 52 FR 39687 (October 26, 1987).

In 17 of the cases consolidated in this Decision, as noted in Appendix B, the alleged regulatory violations involved the sale of both crude oil and refined petroleum products. The moneys remitted were divided into two pools—one for crude oil and one for refined products. Here we are instituting procedures to distribute only the crude oil pools established in those cases. The procedures previously proposed or developed to distribute the refined product pools are unaffected by this Decision.

[2] As noted in Appendix B, eight firms have outstanding liabilities to the DOE. These funds, as they are remitted to the Department, will also be disbursed pursuant to the procedures established in this Decision. The DOE will give notice when such additional funds are received.

determined that such procedures are appropriate.

I. Background

A majority of the refund matters which are consolidated in the present Decision and Order were included in three previous decisions issued by the OHA in 1982 and 1984. *Office of Enforcement,* 9 DOE ¶82,521 (1982) (*Alkek*); *Office of Enforcement,* 9 DOE ¶82,553 (1982) (*Adams*); and *A. Johnson & Co., Inc.,* 12 DOE ¶85,102 (1984) (*A. Johnson*). A number of other cases were intitiated as the result of "global" consent orders resolving alleged overcharges by firms in their sales of both crude oil and refined petroleum products. *See, e.g., Standard Oil Co.,* (*Indiana*), 10 DOE ¶85,048 (1982). In those early Subpart V decisions, the DOE permitted injured persons to file claims and proposed to divide any unclaimed crude oil overcharge funds among the states for indirect restitution, based on their proportionate consumption of refined petroleum products. We recognized in those decisions that the effects of crude oil pricing violations were generally spread by the Entitlements Program among all domestic refiners. *See, e.g., Alkek,* 9 DOE at 85,133. A major question remained, however, concerning the extent to which refiners absorbed or passed through to their customers the increased costs associated with these violations. As a result of this uncertainty, claims from end-users were never considered in those proceedings, and the more than 60 claims that were filed, mostly by refiners, were held in abeyance. Due to the Final Settlement Agreement in *The Department of Energy Stripper Well Exemption Litigation,* M.D.L. No. 378 (D. Kan.), which led to the MSRP, we are now in a position to consider crude oil refund claims on their merits.[3]

The OHA has been applying the MSRP in all Subpart V proceedings involving alleged crude oil violations. *See* Order Implementing the MSRP, 51 FR 29689 (August 20, 1986). That Order provided a period of 30 days for the filing of any objections to the application of the MSRP, and solicited comments concerning the appropriate procedures to follow in processing refund applications in crude oil refund proceedings.

On April 10, 1987, the OHA issued a Notice analyzing the numerous comments which it received in response to the August 1986 Order. 52 FR 11737. The Notice set forth generalized procedures and provided guidance to assist claimants that wish to file refund applications for crude oil money under the Subpart V regulations. All applicants for refund would be required to document their purchase volumes of petroleum products during the period of price controls and to prove that they were injured by the alleged overcharges. The Notice indicated that end-users of petroleum products whose businesses are unrelated to the petroleum industry will be presumed to have absorbed the crude oil overcharges, and need not submit any further proof of injury to receive a refund. Finally, we stated that refunds would be calculated on the basis of a per gallon refund amount derived by dividing crude oil violation amounts by the total consumption of petroleum products in the United States during the period of price controls. The numerator would include the crude oil overcharge moneys that were in the DOE's escrow account at the time of the settlement and a portion of the funds in the MDL 378 escrow at the time of the settlement.[4]

These procedures have been approved by the United States District Court for the District of Kansas. Various States had filed a Motion with that Court, claiming that the OHA violated the Settlement Agreement by employing presumptions of injury for end-users and by improperly calculating the refund amount to be used in those proceedings. On August 17, 1987, Judge Theis issued an Opinion and Order denying the States' Motion in its entirety. The court concluded that the Settlement Agreement "does not bar OHA from permitting claimants to employ reasonable presumptions in affirmatively demonstrating injury entitling them to a refund." *In Re: The Department of Energy Stripper Well Exemption Litigation,* M.D.L. No. 378, 3 Fed. Energy Guidelines ¶26,587 at 26,826 (D. Kan. 1987). The court also ruled that, as specified in the April 1987 Notice, the OHA could calculate refunds based on a portion of the MDL 378 overcharges. *Id.* at 26,827. The States have appealed the latter ruling. *In Re: The Department of Energy Stripper Well Exemption Litigation,* No. 10-76 (Temp. Emer. Ct. App. filed Nov. 5, 1987).

II. The Proposed Decisions and Orders

On October 19, 1987, the OHA issued a Proposed Decision and Order (PD&O) establishing tentative procedures to distribute the alleged crude oil violation amounts involved in 109 cases. *Ernest A. Allerkamp,* 52 FR 39987 (October 26, 1987). Proposed refund procedures for two cases involving split pool accounts had already been set forth in separate PD&Os issued earlier: *Exxon Corp.,* 52 FR 35313 (September 18, 1987); and *Total Petroluem Inc.,* 52 FR 18443 (May 15, 1987). The procedures tentatively established to distribute the crude oil pools in those two cases were similar to the proposed procedures in *Allerkamp.* Since the issues are the same, we are combining all three proposed determinations into the present final Decision and Order.

The OHA tentatively concluded in the three PD&Os that the monies in those cases should be distributed in accordance with the MSRP and the April 10, 1987 Notice. Pursuant to the MSRP, the OHA proposed to reserve initially 20 percent of the alleged crude oil violation amounts for direct restitution to applicants who claim that they were injured by the alleged crude oil violations. The remaining 80 percent of the funds would be distributed to the state and federal governments for indirect restitution. After all valid claims are paid, any remaining funds in the claims reserve also would be divided between the state and federal governments. The federal government's share ultimately would be deposited into the general fund of the Treasury of the United States.

In the three PD&Os, the OHA proposed to require applicants for refund to document their purchase volumes of petroleum products during the period of price controls and to prove that they were injured by the alleged crude oil overcharges. The PD&Os stated that end-users of petroleum products whose businesses are unrelated to the petroleum industry could use a presumption that they absorbed the crude oil overcharges, and need not submit any further proof of injury to receive a refund. The OHA also proposed to calculate refunds on the basis of a per gallon refund amount derived by dividing crude oil violation amounts ("the numerator") by the total consumption of petroleum products in the United States during the period of price controls ("the denominator"). In *Allerkamp,* the OHA proposed, on the basis of the conclusions reached in the April 10, 1987 Notice to add $985 million to the numerator in addition to the $119

[3] For a dicussion of the developments that culminated in the Settlement Agreement, *see* Order Implementing the MSRP, 51 FR 29689 (August 20, 1986); *see also* Notice Discussing Comments, 52 FR 11737 (April 10, 1987).

[4] On April 15, 1987, we issued a Decision establishing refund procedures for 42 cases involving $373 million in crude oil violation amounts. A. *Tarricone, Inc.,* 15 DOE ¶85,495 (1987). Those procedures conformed to the generalized procedures discussed in the April 10, 1987 Notice.

million in principal from the cases included in that PD&O. Finally, the OHA also proposed in *Allerkamp* to combine all of the volumetric refund amounts obtained in each crude oil refund proceeding implemented to date under the MSRP. Comments were solicited regarding the tentative distribution process set forth in the PD&Os.

III. Discussion of the Comments Received

In response to the three PD&Os, the OHA received comments from the following: a group of 30 States and Territories of the United States; a group of 43 ocean carriers and foreign air carriers; and Philip P. Kalodner as counsel for six electric utilities, 14 shipping companies and five pulp and paper manufacturers. Both the ocean and air carriers and Mr. Kalodner's clients are potential recipients of crude oil refunds. They will be referred to collectively as the "claimant commenters." In general, the commenters addressed two issues: the presumption of injury for end-users and the calculation of refund amounts in crude oil cases.

A. The Presumption of Injury for End-Users

Two commenters expressed opinions concerning the nature and effect of our presumption of injury for end-users. Mr. Kalodner claims that, based on DOE policy and practice, this presumption "must necessarily be irrebuttable." Kalodner comments at 5. This claim is erroneous. The DOE has never stated that the end-user presumption is irrebuttable. In fact, we have indicated that any interested party will have the opportunity to prove that a particular end-user applicant suffered no compensable injury. *Berry Holding Co.*, 16 DOE ¶ 85,495 at 88,797 (1987).

At the opposite end of the spectrum, the States claim in their comments that the presumption of injury can be rebutted merely by the presentation of any evidence which bears upon the presumption. This contention is also erroneous. The claimants' burden of proof is eased by the presumption. If an interested party submits evidence to rebut the presumption of injury, we must first determine whether the evidence submitted is relevant to the issue. If the evidenced is relevant and sufficient to rebut the presumption, the claimant has the burden of coming forward with further evidence of injury. However, if we find the evidence submitted to rebut the presumption to be insufficient, a refund to the end-user can be approved, based upon the weight of the presumption, without requiring the end-user to submit further evidence of injury.

B. Calculation of Refunds

The States continue to claim that it is erroneous to add $985 million to the numerator of the volumetric formula. They also argue that payments to end-users should be further reduced to reflect an estimation of the amount of crude oil overcharges that were absorbed by refiners, resellers and retailers. In contrast, the claimant commenters fully support the addition of $985 million to the numerator. In fact, they contend that various additional amounts should be included in the numerator. We will address each party's contentions in turn.

The States maintain that the addition of $985 million to the numerator of the volumetric formula violates the terms of the Settlement Agreement. According to the States, the DOE has no authority to employ in its calculation of the volumetric any of the MDL 378 funds already distributed pursuant to the settlement. This argument has been rejected. According to the United States District Court for the District of Kansas, "[n]either the Settlement Agreement nor the Subpart V regulations specifies a particular formula DOE must employ in granting refunds. * * * DOE has not violated any provision of the Settlement Agreement by factoring in a portion of other M.D.L. 378 overcharges in compensating Subpart V claimants." 3 Fed. Energy Guidelines ¶ 26,587 at 26,826–27. As we explained in the April 10, 1987 Notice, the inclusion of $985 million in the numerator "compensates refund recipients in MDL 378 and in Subpart V proceedings on an equal footing and most fairly and equitably effectuates restitution for the injury they suffered as a result of crude oil overcharges." 52 F. R. at 11741. We have considered and rejected the States' contention to the contrary in the past, and our position has been approved by the District Court in Kansas.[5]

The States also contend that any refunds to end-users should be reduced by the percentage of alleged crude oil overcharges that were absorbed by refiners, resellers and retailers. In order to calculate this reduction, the States claim that the OHA should use the econometric evidence developed during the evidentiary hearing conducted by the OHA during the Stripper Well Exemption Litigation. That hearing, which lasted 22 days and produced a record of nearly 13,000 pages of written and oral testimony, resulted in a determination that domestic refiners as a class absorbed between 2.7 and 8.1 percent of the crude oil overcharges. The remainder of the overcharges were passed on to the national petroleum distribution network and to consumers of petroleum products. *See* 52 FR at 11738. The States maintain that the amount of crude oil overcharges absorbed by resellers and retailers could similarly be calculated by the use of econometric evidence and further evidentiary hearings. An end-user's refund, according to the States' plan, could then be reduced by the percentage of crude oil overcharges that were absorbed by those intermediaries in the crude oil distribution chain.

This plan would unnecessarily delay the Subpart V refund process for an extended period of time and needlessly complicate the calculation of refunds. We adopted the "full parity" approach precisely because of its virtues, including the elimination of any "need to consider nettlesome questions of 'upstream' overcharge absorption by middlemen in the oil distribution chain." 52 FR at 11741. Under the full parity approach, only $985 million of the $1.4 billion in the MDL 378 escrow at the time of the Settlement Agreement is to be added to the numerator. The $415 million refunded to refiners, resellers and retailers is not included, and represents the total amount of upstream absorption for all crude oil overcharges. Thus, the numerator excludes the amount of injury attributed to those intermediaries in the distribution chain. We will adopt this approach as being the most balanced and fairest to all concerned.

The claimant commenters endorse and approve of the use of the full parity approach to calculating crude oil refunds. However, these commenters suggest that various amounts should be added to the numerator of the volumetric formula in order to increase the size of refunds. The funds which the claimant commenters would add to the numerator would come from four sources.

First, the ocean and air carriers contend that all interest which has accrued on the crude oil violation amounts should be included in the numerator of the volumetric formula. According to the carriers, including accrued interest in the numerator is

[5] In their comments, the States suggest that we "refrain from distributing any of the 20% of overcharge funds reserved for Subpart V crude oil refunds" until their appeal of the District Court's decision in this matter is completed. States' comments at 9. We are certainly not required to delay granting refunds to qualified claimants while the States, who already have obtained sizeable payments of crude oil violation amounts under Subpart V, carry on a potentially lengthy appellate process.

necessary "if claimants are to be made whole" and are to be compensated "for the lost time value of their money." Ocean and air carriers' comments at 3. In fact, there is no material difference between the OHA's proposed course of action and the position advocated by these commenters. An appropriate amount of interest will be paid to all successful refund applicants. It is simply irrelevant whether the interest is added to the numerator or is calculated in some other manner.

Second, the claimant commenters suggest that we should include in the numerator the $100 million in crude oil overcharge funds distributed to the states and territories by the DOE in February 1983 pursuant to Section 155 of the Further Continuing Appropriations Act of 1982, Pub. L. No. 99-377 (the Warner Amendment). This suggestion goes too far. Both the Settlement Agreement and the MSRP by their terms apply only to the funds in escrow with the court or the DOE at the time of the court's approval of the settlement and to amounts received in the future. Thus the numerator to the volumetric formula also should include only those funds. Since the Warner Amendment funds were distributed prior to that time, the Settlement Agreement and the MSRP clearly could not apply to them. They were therefore correctly excluded from the numerator of the volumetric formula.[6]

The same rationale holds true for the third suggested source of funds to be added to the numerator. Mr. Kalodner contends that the numerator should include other crude oil violation amounts previously recovered by the United States, even if those funds had been distributed to the federal government prior to the Settlement Agreement. Mr. Kalodner would include in the numerator: (1) An estimated $100 million of funds that have been paid directly into the United States Treasury prior to the Settlement Agreement by various firms in settlement of alleged crude oil violations; (2) "additional amounts [that] have been paid to the benefit of the U.S. Treasury through contributions to the Strategic Petroleum Reserve;" and (3) $100 million "constructively received" by the United States government in settlement of claims regarding the violation of crude oil regulations in the matter of *Marc Rich & Co.*, No. 83-579 (S.D.N.Y. 1984). Kalodner comments at 13-16. Indirect restitution to citizens through payments to the United States Treasury was a remedy for crude oil overcharges that was entirely within the DOE's broad remedial discretion and it has been upheld by the courts. *See, e.g., Pennzoil, Co.* v. *DOE*, Fed. Energy Guidelines (Court Decision 1981-1984) ¶26,415 (D. Del.), *Aff'd on other gounds sub. nom., Cities Service Co. v.* DOE, 715 F.2d 572 (Temp. Emer. Ct. App. 1983). *See also* Ruling 1984-1, 49 FR 22063 (May 25, 1984). Subsequently, the DOE promulgated the MSRP, which specified the process to be used for restitution of alleged crude oil violation amounts. As previously stated, both the MSRP and the Settlement Agreement apply prospectively only. All of the funds outlined above were distributed prior to the court's approval of the Settlement Agreement and the promulgation of the MSRP, and they should not be included in the numerator of the volumetric formula.

Finally, Mr. Kalodner maintains that the numerator should include $100 million in crude oil overcharge funds distributed to the states and federal government pursuant to the stipulation and order of dismissal in *Diamond Shamrock Refining & Marketing Co. v. Standard Oil Co.*, No. C2-84-1482 (D. Ohio May 30, 1986). According to Mr. Kalodner, these funds were part of the Settlement Agreement and should be treated in an indentical manner. We do not agree. The Diamond Shamrock litigation was entirely separate from the *Stripper Well Exemption Litigation*. The remedy fashioned in *Diamond Shamrock* was distinct from that embodied in the Settlement Agreement, as was the judgment rendered in *United States v. Exxon Corp.*, 561 F. Supp. 816 (D.D.C. 1983). Just like the overcharges recovered from *Exxon*, which was distributed to the state governments for the benefits of all consumers, the funds disbursed in *Diamond Shamrock* should not be included in the numerator of the volumetric formula.[7]

After reviewing all of the suggestions of the commenters, we conclude that in order to maintain "full parity" between claimants in MDL 378 and in Subpart V, only $985 million should be added to the numerator of the volumetric formula, in addition to the crude oil violation amounts included in this Decision.

IV. The Refund Procedures

A. Refund Claims

After considering the comments received, we have concluded that the $130.5 million in alleged crude oil violation amounts covered by this Decision, plus the $71.3 million in interest which has accrued on that amount as of December 31, 1987, should be distributed in accordance with the crude oil refund procedures previously discussed. As noted in the PD&Os, we have decided to reserve initially the full 20 percent of the alleged crude oil violation amounts, or $26.1 million plus interest, for direct refunds to claimants, in order to ensure that sufficient funds will be available for refunds to injured persons.[8] The amount of the reserve may be adjusted downward later if circumstances warrant.

The process which the OHA will use to evaluate claims based on alleged crude oil violations will be modeled after the process the OHA has used to evaluate claims based on alleged refined product overcharges pursuant to Subpart V. *MAPCO Inc.*, 15 DOE ¶ 85,097 (1986); *Mountain Fuel Supply Co.*, 14 DOE ¶ 85,475 (1986). As in non-crude oil cases, applicants will be required to document their purchase volumes and demonstrate that they were injured. *See id.* Following Subpart V precedent, reasonable estimates of purchase volumes may be submitted. *Greater Richmond Transit Co.*, 15 DOE ¶ 85,028 (1986). Generally, it is not necessary for applicants to identify their suppliers of petroleum products in order to receive a refund. End-users or ultimate consumers of petroleum products whose businesses are unrelated to the petroleum industry and who were not subject to the DOE price regulations are presumed to have absorbed rather than passed on alleged crude oil overcharges. In order to receive a refund, end-users, need not submit any further evidence of injury beyond volumes of product purchased in the distribution scheme in which the overcharges occurred. *Id.* The end-user

[6] A list of the cases that were the source of the Warner Amendment disbursement was published at 51 FR 26745 (July 25, 1986). That Notice explains the accounting adjustments made to account for the actual disbursement of funds, which occurred much earlier. In two of those cases, the firms made additional payments to the DOE after the Settlement Agreement and the MSRP. This Decision applies to those payments. *See* Appendix B, notes 1 and 10.

[7] Mr. Kalodner also contends that any additional funds that are deposited into the MDL 378 escrow account subsequent to the Settlement Agreement should be added to the numerator. These "deficiency payments," Mr. Kalodner argues, are "part and parcel" of the Settlement Agreement and must be included in calculating any Subpart V crude oil refunds in order to maintain "full parity" between Subpart V claimants and the MDL 378 parties. Kalodner comments at 7-8. The addition of these funds to the numerator was not suggested in the three PD&Os, and this Decision is not the proper proceeding in which to make such additions. *See* Tarricone, 15 DOE at 88, 996-97, n.9.

[8] As explained below, in certain cases included herein we have previously distributed 80 percent of the alleged violation amounts to the states and federal government. The remaining 20 percent in those cases has already been reserved for direct refunds to claimants.

presumption of injury is rebuttable, however. *Berry Holding Co.*, 16 DOE at 88,797. If an interested party submits evidence which is of sufficient weight to rebut the end-user presumption, the applicant will be required to produce further evidence of injury.

Resellers and retailers of petroleum products must submit detailed evidence of injury, and may not use presumptions of injury established by the OHA in refund cases involving refined petroleum products. They can, however, use econometric evidence of the type employed in the OHA Report to the District Court in the Stripper Well Litigation, Fed. Energy Guidelines ¶90,507 (June 19, 1985), and the OHA intends to utilize the final and April 1, 1985 draft reports in evaluating refund applications submitted under Supart V. *See* Petroleum Overcharge Distribution and Restitution Act of 1986, Pub. L. No. 99-509, Section 3003(b)(2). The presumption used in refined product cases that spot purchasers were not injured by their purchases will not be used in the crude oil overchange area. *Tarricone*, 15 DOE at 88,897 (1987). Applicants who executed and submitted a valid waiver pursuant to one of the escrows established in the Settlement Agreement have waived their rights to apply for crude oil refunds under Subpart V. *Boise Cascade Corp.*, 16 DOE ¶85,214 at 88,411 (1987); *Sea-Land Service, Inc.*, 16 DOE ¶ 85,496 (1987). *See In Re: The Department of Energy Stripper Well Exemption Litigation*, M.D.L. No. 378 (D. Kan. opinion issued December 7, 1987).

Refunds to eligible claimants who purchased refined petroleum products will be calculated on the basis of a volumetric refund amount derived by dividing the crude oil violation amounts ("the numerator") by the total consumption of petroleum products in the Unted States during the period of price controls ("the denominator").[9] For the reasons discussed above and in the April 10, 1987 Notice, henceforth we will include $985 million in the numerator of the volumetric calculation, in addition to the $130.5 million in principal from the cases included in this Decision. This yields a volumetric refund amount of $0.000552 per gallon. In paying claims, we will combine all of the volumetric refund amounts obtained in each crude oil refund proceeding implemented to date under the MSRP, to yield a total per gallon refund amount of $0.0007634, plus interest on that amount.[10]

A crude oil refund applicant will be required to submit only one application for all crude oil overcharge amounts that were included in those proceedings. Any party that has previously submitted a refund application in crude oil refund proceedings need not file another application; that application will be deemed to be filed in all crude oil proceedings finalized to date. To apply for a crude oil refund, applicants claiming a refund based on a purchase volume of less than 300,000 gallons should submit the information in the suggested format attached a Appendix C to this Decision. Applicants claiming a refund based on a volume of 300,000 gallons or more should submit all of the information in the suggested format of Appendix C and include all of the information outlined below:

(1) Identifying information including the applicant's name, address, and social security number of employer number, an indication whether the applicant is a corporation, the name and telephone number of a person to contact for any additional information, and the name and address to the person who should receive the refund check;

(2) A short description of the applicant's business and how it used petroleum products. If the applicant did business under more than one name, or a different name during the period of price controls, the applicant should list these names;

(3) If the applicant's firm is owned by another company, or owns other companies, a list of those other companies' names and their relationships to the applicant's firm;

(4) A statement identifying the petroleum products which the applicant purchased during the period August 19, 1973, through January 27, 1981, the number of gallons of each product purchased, and the total number of gallons for all products purchased on which the applicant bases its claim;

(5) An explanation of how the applicant obtained the volume figures above, and an explanation of its method of estimation if the applicant used estimates to determine its purchase volumes;

(6) A statement that neither the applicant, its parent firm, affiliates, subsidiaries, successors nor assigns has wavied any right it may have to receive a refund in these cases (i.e. that if has not filed for a refund from any of the escrow accounts established pursuant to the Settlement Agreement);

(7) If the applicant is not an end-user whose business is unrelated to the petroleum industry, a showing that the applicant was injured by the alleged overcharges (i.e. that the applicant did not pass the overcharges through to its own customers); and

(8) If the applicant is a regulated utility, a certification that it will notify the state utility commission of any refund received and that it will pass on the entirety of its refund to its retail customers.

All applications should be typed or printed, clearly labelled "Application for Crude Oil Refund," and mailed to the following address: Subpart V Crude Oil Overcharge Refunds, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

The volumetric refund amount will be increased as additional crude oil violation amounts are received in the future. Applicants may be required to submit additional information to document their refund claims for present or future amounts. Notice of additional amounts available in the future will be published in the **Federal Register**.

B. Payments to the States and Federal Government

Under the terms of the MSRP, the remaining 80 percent of the $130.5 million plus interest in alleged crude oil violation amounts subject to this Decision, or $104.4 million plus interest, should be disbursed equally to the states and federal government for indirect restitution. In August 1986, the DOE paid out $59.3 million of those funds to the states and federal government.[11] Therefore, $45.1 million

[9] We will use the estimate that 2,020,997,335,000 gallons of petroleum products were consumed in the United States during the period August 1973 through January 1981. *Mountain Fuel*, 14 DOE at 88,868 n.4 (1986).

[10] The following per gallon volumetric refund amounts were obtained in prior crude oil refund proceedings:

Mountain Fuel Supply Co., 14 DOE 85,475 (1986)	$0.0000004536
MAPCO, Inc., 15 DOE 85,097 (1986)	0.000000089
Kent Oil & Trading Co., 15 DOE 85,100 (1986)	0.0000000069
A. Tarricone, Inc., 15 DOE 85,495 (1987)	0.000185
O.B. Mobley, Jr., 16 DOE 85,006 (1987)	0.0000054
Berry Holding Co., 16 DOE 85,405 (1987)	0.0000098
Atlantic Richfield Co., 17 DOE [No. HEF-0591 (January 28, 1988)	0.0000107
Total for prior cases	0.0002114495
Volumetric for the present proceeding	0.000552
Current Total	0.0007634495

[11] *See Stripper Well Exemption Litigation*, 14 DOE ¶ 85,382 (1986). In that determination, the OHA ordered, pursuant to paragraph IV.B.7 of the Settlement Agreement, the disbursement to the states and federal government of 80 percent of the funds in 59 of the subaccounts consolidated in this Decision. For each subaccount from which an August 1986 payment was made, with one exception noted below, no further refund to the states and federal government is appropriate.

of principal remains to be disbursed to those entities. To that amount will be added $17.3 million in interest.[12] The total amount to be disbursed to the states and federal government pursuant to this determination is therefore $62.4 million ($45.1 million in principal plus $17.3 million in interest).

Accordingly, we will direct the DOE's Office of the Controller to segregate the $62.4 million available for disbursement to the states and federal government and transfer one-half of that amount, or $31.2 million, into an interest-bearing subaccount for the states, and one-half into an interest-bearing subaccount for the federal government. In the near future, we will issue a Decision and Order directing the DOE's Office of Controller to make the appropriate disbursements to the individual states from their respective subaccount. This future Order is necessary to improve our ability to track the various disbursements to the states. Each individual state's percentage share of the funds to be disbursed is set forth in Exhibit H to the Settlement Agreement and is based on each state's consumption of petroleum products during the period of price controls. When disbursed, these funds will be subject to the same use limitations and reporting requirements as all other crude oil moneys received by the states under the Settlement Agreement.

It is therefore ordered that:

(1) Applications for Refund from the alleged crude oil overcharge funds remitted by the firms identified in Appendix B to this Decision and Order may now be filed.

(2) All applications submitted pursuant to paragraph (1) above must be filed no later than June 30, 1988.

(3) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Office of the Controller, Department of Energy, shall take all steps necessary to transfer, as provided in paragraphs (4) and (5) below, the following amounts:

(a) Eighty percent of the total current net equity as of December 31, 1987, from each of the subaccounts (within the Deposit Fund Escrow Account maintained by the DOE at the Treasury of the United States) listed in Appendix B to this Decision and Order which are not split pool accounts (split pool accounts are noted with an asterisk) and for which no August 1986 payment is indicated;

(b) Eighty percent of the crude oil principal listed in Appendix B, plus the interest which has accrued on that portion of the crude oil principal through December 31, 1987, from each of the subaccounts listed in Appendix B to this Decision and Order which are split pool accounts, except for the Standard Oil (Indiana) subaccount; and

(c) $581,912.13 in interest from the Standard Oil Co. (Indiana) subaccount, Consent Order Number RAMA00010Y.

(4) The Director of Special Accounts and Payroll shall transfer $31,214,837.17 of the funds obtained pursuant to paragraph (3) above, plus interest which accrues from January 1, 1988 to the date of disbursement, into the subaccount denominated "Crude Tracking-States," Number 999DOE003W.

(5) The Director of Special Accounts and Payroll shall transfer $31,214,837.17 of the funds obtained pursuant to paragraph (3) above, plus interest which accrues from January 1, 1988 to the date of disbursement, into the subaccount denominated "Crude Tracking-Federal," Number 999DOE002W.

(6) The Director of Special Accounts and Payroll shall transfer into the subaccount denominated "Crude Tracking-Claimants," Number 999DOE007Z, all of the funds remaining, after the transfers indicated in paragraphs (4) and (5) above, in each of the subaccounts listed in Appendix B to this Decision, except for those subaccounts which are split pool accounts. For each of the split pool accounts, except for the Standard Oil Co. (Indiana) subaccount, the Director of Special Accounts and Payroll shall transfer 20 percent of the crude oil principal noted in Appendix B, plus the interest which has accrued on that portion of the crude oil principal through the date of the transfer, into the "Crude Tracking-Claimants" subaccount. For the Standard Oil Co. (Indiana) subaccount, the Director of Special Accounts and Payroll shall transfer $2,597,215.64 in principal and $224,782.39 in interest to the "Crude Tracking-Claimants" subaccount.

Date: February 4, 1988.

George B. Breznay,

Director, Office of Hearings and Appeals.

APPENDIX A—CASES FOR WHICH NO FINAL DECISION AND ORDER PREVIOUSLY HAS BEEN ISSUED

OHA case name	OHA case No.	Date of filing
Allerkamp, Ernest E., *et al.*	KFX-0033	5/12/87
BHP Petroleum Co., Inc	KFF-0086	12/12/86
Bigheart Pipeline Corp	KFF-0092	4/28/87
Crown Central Petroleum Corp.	KFX-0045	6/30/86
Exxon Corp	KFX-0046	2/06/87
Henry Petroleum Corp	KFF-0098	9/30/87
Horizon Petroleum Co	KFF-0084	12/01/86
Inexco Oil Co	KFF-0089	3/17/87
Inexco Oil Co	KFF-0091	3/20/87
International Petroleum Refining.	KFF-0010	11/19/85
Mountain Fuel/Wexpco Co.	KFF-0080	9/22/86
OKC Corp	KFX-0029	2/05/87
R.W. Tyson Producing Co	KFF-0090	3/17/87
Southland Royalty Co	KFF-0582	5/10/85
Texaco Inc. & Stanford Harrell.	KFF-0088	2/25/87
Total Petroleum, Inc	KFX-0044	10/02/86
Union Texas Petroleum Corp:	KFX-0031	4/07/87
Vanderbilt Energy Corp	KFF-0096	9/02/87

[12] There were 52 accounts from which no advance payment was made to the states and federal government in August 1986. The total interest which accrued on those accounts, as of December 31, 1987, was $20.9 million. Since the states and federal government will receive 80 percent of the principal in those accounts, 80 percent of the interest, or $16.72 million, should also be disbursed to them. To that amount will be added $582,000 in interest which is available for disbursement to the states and federal government from the Standard Oil Co. (Indiana) subaccount. *See* Appendix B, note 14. The total amount of interest to be disbursed to the states and federal government is therefore $17.3 million ($16.72 million plus $582,000).

OHA Case name	OHA case No.	Consent order No.	Status	Crude principal received	Aug. 1986 payment (principal)
Allerkamp, Ernest E	HEF-0489	610C00201Z	A. Johnson	$444,080.44	$355,264.35
Amax Petroleum Corp	HEF-0315	422C00064Z	A. Johnson	182,450.00	145,960.00
American Pacific International*	HEF-0316	940C00112Z	14 DOE ¶ 85,158	171,861.37	0.00
Aminoil USA, Inc	HEF-0317	610C00458Z	A. Johnson	2,600,000.00	2,080,000.00
Aminoil USA, Inc	HEF-0229	740V01315Z	12 DOE ¶ 85,188	1,600,000.00	1,280,000.00
Armour Oil Co	HEF-0278	940X00179Z	A. Johnson	225,000.00	0.00
Barton, A.L	HEF-0279	6A0X00299Z	A. Johnson	100,000.00	80,000.00
Bass Enterprises Production Co	HEF-0323	6D0C00090Z	A. Johnson	497,500.00	398,000.00
Bayou State Oil/Ida Gasoline*	HEF-0202	641S00396Z	12 DOE ¶ 85,197	347,975.00	0.00
Beebe, J.S. and J.S., Jr.	HEF-0505	6C1C00206Z	12 DOE ¶ 85,170	39,901.19	31,920.95
Belco Petroleum Corp	HEF-0325	240C00002Z	A. Johnson	137,940.00	110,352.00
Benson-Montin-Greer Drilling Co	BEF-0087	740C01253Y	Adams	68,369.13	54,695.30
Beta Development Co	BEF-0009	673C00290Y	Alkek	134,367.92	0.00
Beverly Hills Oil Co	HEF-0328	940C00142Z	13 DOE ¶ 85,003	25,000.00	[1] 0.00
BHP Petroleum Co., Inc	KEF-0086	650C00369Z	No action	375,000.00	0.00
Bigheart Pipeline Corp	KEF-0092	6C0X00235Z	No action	6,937,011.74	0.00
Bill Forney, Inc	HEF-0362	610C00473Z	A. Johnson	480,000.00	384,000.00
BTA Oil Producers	BEF-0083	672C00182Y	Adams	415,816.87	332,653.50
Buxton, F.M	HEF-0335	660C00508Z	A. Johnson	0.00	[2] 0.00
Century Refining Co	BEF-0077	710V02005Y	Adams	2,700,000.00	[3] 2,159,367.20
Coastal Corp	BFF-0005	RCLE00501Y	Adams	9,000,000.00	7,200,000.00
Coffield Pipeline Co	HEF-0282	650X00295Z	A. Johnson	86,378.05	69,102.44
Cooper & Brain, Inc	HEF-0344	960C00029Z	A. Johnson	465,211.57	372,169.26
Cotton Petroleum Corp	HEF-0486	6C0C00213Z	A. Johnson	1,156,493.14	0.00
Crown Central Petroleum Corp*	KFX-0045	RCWA00000Z	PD&O 8/15/86	647,400.00	[4] 0.00
Crystal Oil Co	BEF-0019	641C00380Y	Alkek	203,596.20	0.00
Diamond Shamrock Corp	BEF-0076	675S00011Y	Adams	55,056.78	0.00
Diamond Shamrock Corp	HEF-0465	N00S90124Z	A. Johnson	10,301.00	0.00
Elm City Filling Stations	HEF-0486	N00M90030Z	A. Johnson	106,770.02	0.00
Engle Enterprise, Inc	HEF-0286	6C0X00300Z	A. Johnson	20,000.00	16,000.00
Enserch Exploration, Inc	BEF-0045	6A0C00160Y	Alkek	495,000.00	396,000.00
Exxon Corp.*	KFX-0046	REXL00201Z	PD&O 9/10/87	9,448,579.50	[5] 0.00
Farmers Union Central Exchange	HEF-0359	740C01249Z	A. Johnson	150,000.00	0.00
Flying Diamond Oil Co	HEF-0490	840G00127Z	A. Johnson	155,537.98	124,430.38
Forgotson, James M	BEF-0043	640C00312Y	Alkek	76,201.21	60,960.97
Franks Petroleum, Inc.*	HEF-0208	641S00421Z	12 DOE ¶ 85,188	999.00	0.00
GCO Minerals Co.*	HEF-0570	NGCP00001Z	14 DOE ¶ 85,142	936,000.00	0.00
Gonsoulin Energy Corp	HEF-0288	640X00434Z	A. Johnson	19,500.00	[6] 12,800.00
Grace Petroleum Corp	HEF-0366	660C00633Z	A. Johnson	1,450,000.00	1,160,000.00
Harris, James W	HEF-0369	422C00201Z	13 DOE ¶ 85,003	0.00	[7] 0.00
Hassie Hunt Exploration Co	HEF-0370	6A0C00256Z	A. Johnson	158,608.39	0.00
Hawthorne Oil & Gas Corp	HEF-0372	640C00314Z	A. Johnson	543,912.56	435,130.05
Henry Petrdleum Corp	KEF-0098	670C00215W	No action	322,587.15	0.00
Hewitt & Dougherty	HEF-0373	610C00117Z	A. Johnson	180,000.00	144,000.00
Hollingsworth, C.D. & Assoc	HEF-0375	422C00196Z	A. Johnson	0.00	[8] 0.00
Horizon Petroleum Co	KEF-0084	650X00289Z	No action	1,932,917.00	0.00
Houston Oil & Minerals Corp	HEF-0376	640C00400Z	A. Johnson	3,985,000.00	3,188,000.00
Hudson & Hudson	HEF-0378	720C00597Z	A. Johnson	750,000.00	600,000.00
Hunt Oil Co	HEF-0380	6A0C00008Z	A. Johnson	29,151.38	23,321.10
Inexco Oil Co	KEF-0089	650C00007Z	No action	299,088.00	0.00
Inexco Oil Co	KEF-0091	6E0C00027Z	No action	242,958.81	0.00
Inland Crude Purchasing Corp	HEF-0291	6C0X00256Z	A. Johnson	21,000.00	16,800.00
International Petroleum Refining	KEF-0010	6C0X00242Z	No action	85,000.00	0.00
Kastman Oil Co	HEF-0492	6C0C00256Z	A. Johnson	50,000.00	40,000.00
Kirkpatrick Oil & Gas Co	HEF-0388	660C00437Z	A. Johnson	260,000.00	0.00
Lakeside Refining Co./Crystal	HEF-0214	540S00276Z	12 DOE ¶ 85,188	200,000.00	160,000.00
Lobo Oil Corp	HEF-0392	670C00271Z	A. Johnson	0.00	[9] 0.00
Mabee Petroleum Corp	BEF-0068	670C00295Y	Adams	435,308.00	348,246.40
Macmillan Ring-Free Oil Co.*	HEF-0506	960S00053Z	13 DOE ¶ 85,165	449,500.00	0.00
Mallard Resources, Inc	HEF-0474	N00S90125Z	13 DOE ¶ 85,074	60,136.73	[10] 0.00
McFarland Energy, Inc	BEF-0023	960C00022Y	Alkek	353,131.99	0.00
Mid-Plains Petroleum Co	HEF-0297	6C0X00311Z	A. Johnson	120,000.00	96,000.00
Milam, M.C., Inc	BEF-0090	572C00221Y	Adams	52,440.69	0.00
Moncrief, W.A. Jr	HEF-0404	6A0C00134Z	A. Johnson	1,100,000.00	880,000.00
Mountain Fuel Supply Co	HEF-0408	820C00185Z	A. Johnson	275,000.00	[11] 220,000.00
Mountain Fuel/Wexpco Co	KEF-0080	820V00209Z	No action	1,024,040.23	[12] 0.00
Mustang Fuel Corp	HEF-0298	6C0X00238Z	A. Johnson	800,000.00	640,000.00
National Coop Refinery Assoc	HEF-0409	740C01299Z	A. Johnson	95,000.00	0.00
NFC Petroleum Corp	HEF-0410	660C00609Z	A. Johnson	257,820.55	206,256.44
Northwest Pipeline Corp.*	HEF-0264	710V03015Z	12 DOE ¶ 85,188	765,865.35	0.00
NRG Oil Co	HEF-0300	650X00332Z	A. Johnson	130,147.42	104,117.94
OKC Corp.*	KFX-0029	6D0S00003Y	No action	750,500.00	[13] 0.00
OKC Corp	HEF-0477	N00S98080Z	A. Johnson	600,000.00	480,000.00
Oxnard Refining Co	HEF-0478	N00S90075Z	A. Johnson	789,108.00	631,286.40
Panhandle Eastern Pipeline Co	HEF-0265	710V02003Z	A. Johnson	683,990.28	547,192.22
Pauley Petroleum, Inc	HEF-0416	910C00127Z	A. Johnson	30,655.04	24,524.03
Perry Gas Processors, Inc.*	BEF-0048	670V00087Y	9 DOE ¶ 82,566	5,007.00	0.00
Perta Oil Marketing Corp.*	HEF-0148	930H00088Z	15 DOE ¶ 85,106	69,802.04	0.00
Quintana Petroleum	BEF-0060	610C00122Y	Adams	3,750,000.00	0.00
Ray M. Huffington, Inc	HEF-0379	6E0C00038Z	A. Johnson	180,000.00	144,000.00
Ryder Truck Rental, Inc	HEF-0305	6A0X00276Z	A. Johnson	130,000.00	0.00

OHA Case name	OHA case No.	Consent order No.	Status	Crude principal received	Aug. 1986 payment (principal)
R.W. Tyson Producing Co.	KEF-0090	600C00108Z	No action	130,000.00	0.00
Santa Fe Energy Products Co.	HEF-0306	640X00448Z	A. Johnson	48,462.00	38,769.60
Sauder, Earl W.	HEF-0432	710C01109Z	A. Johnson	296,622.32	237,297.86
Signal Petroleum	HEF-0437	640C00390Z	A. Johnson	1,500,000.00	0.00
Southern Crude Oil Resources	HEF-0495	6A0X00314Z	A. Johnson	135,000.00	108,000.00
Southern Union Co.*	HEF-0223	673S00336Z	13 DOE ¶ 85,029	20,000.00	0.00
Southern Union/Midland-Lea	HEF-0308	6A0X00325A	A. Johnson	320,124.84	256,099.87
Southland Royalty Co	HEF-0582	600C00034Z	PD&O 4/22/86	748,515.01	0.00
Standard Oil Co. (Indiana) *	BFF-0007	RAMA00010Y	10 DOE ¶ 85,048	12,986,078.19	[14] 10,388,862.55
Summit Transportation Co	BEF-0053	602X00002Y	Adams	17,000,000.00	13,600,000.00
Superior Oil Co	HEF-0441	610C00442Z	A. Johnson	9,800,000.00	0.00
Tauber Oil Co.	HEF-0309	650X00304Z	A. Johnson	575,000.00	460,000.00
T-C Oil Co	BEF-0047	610C00118Y	Adams	395,000.00	316,000.00
Texaco Inc. & Stanford Harrell	KEF-0088	RTXZ000A1Z	No action	7,476,088.01	0.00
Texas American Petrochemicals	HEF-0310	6C0X00267Z	A. Johnson	10,000.00	8,000.00
Texas Pacific Oil Company, Inc.	HEF-0496	600C00104Z	A. Johnson	500,000.00	400,000.00
Timco Oil Co	KEF-0006	940C00147Z	14 DOE ¶ 85,220	75,000.00	60,000.00
Total Petroleum, Inc.*	KFX-0044	540S00227Z	PD&O 5/8/87	2,000,000.00	[15] 0.00
True Co.*	HEF-0557	733V02019Z	13 DOE ¶ 85,178	1,166,666.70	0.00
Twin Montana, Inc.	HEF-0450	6A0C00242A	A. Johnson	1,545,676.28	1,236,541.02
TXO Oil Co.	HEF-0311	6A0X00297Z	A. Johnson	150,000.00	0.00
Union Oil Co. of California	KEF-0004	RUNA00002Z	14 DOE ¶ 85,220	4,500,000.00	3,600,000.00
Union Texas Petroleum Corp.	BEF-0025	610C00435Y	ALKEK	2,100,000.00	1,680,000.00
Union Texas Petroleum Corp.*	KFX-0031	6E0S00075Y	No action	396,700.00	[16] 0.00
U.S.A. Petroleum, Inc.*	HEF-0500	960S00093Z	14 DOE ¶ 85,122	787,500.00	0.00
Vanderbilt Energy Corp.	KEF-0096	810C00352W	No action	500,000.00	0.00
Wall, Earl E	HEF-0456	640C00295Z	A. Johnson	308,833.60	[17] 243,066.88
Westates Petroleum Co.	HEF-0457	940C00096Z	12 DOE ¶ 85,179	825,000.00	660,000.00
Windsor Gas Corp.	KEF-0002	6E0C00034Z	14 DOE ¶ 85,220	176,956.78	141,565.42
Woods, Dalton J.	HEF-0462	640C00285Z	A. Johnson	93,545.72	74,836.58
Totals				130,500,744.17	59,261,590.71

* Denotes cases in which firms remitted funds to the DOE to resolve alleged regulatory violations involving the sale of both crude oil and refined petroleum products. Only the crude oil funds from these cases are subject to this Decision. *See* Decision and Order at footnote 1.

[1] Pursuant to the Warner Amendment, the DOE distributed $41,951.00 previously remitted by Beverly Hills Oil Co. Subsequent to this disbursement, the firm remitted an additional $25,000.00, which is still in escrow. The firm continues to have an outstanding liability to the DOE.

[2] To date, F.M. Buxton has not paid any portion of its total liability to the DOE.

[3] Century Refinishing Co. was a subsidiary of Panhandle Eastern Pipeline Co. The name on Consent Order Number 710V02005Y is Panhandle Eastern, while the case name of OHA case number BEF-0077 is Century Refining.

[4] This case involves the crude oil pool proposed in case number KEF-0044. *See* PD&O at 51 Fed. Reg. 30404 (Aug. 26, 1986).

[5] This case involves the crude oil pool proposed in case number KEF-0087. *See* PD&O at 52 Fed. Reg. 35313 (Sept. 18, 1987).

[6] Gonsoulin Energy Corp. is among those firms having an outstanding liability to the DOE.

[7] Pursuant to the Warner Amendment, the DOE distributed $103,519.74 previously remitted by James W. Harris. The firm continues to have an outstanding liability to the DOE.

[8] Pursuant to the Warner Amendment, the DOE distributed $119,217.52 previously remitted by C. D. Hollingsworth & Associates. The firm continues to have an outstanding liability to the DOE.

[9] Lobo Oil Corp. has not paid any portion of its total liability to the DOE.

[10] Pursuant to the Warner Amendment, the DOE distributed $188,499.29 previously remitted by Mallard Resources, Inc. Subsequent to this disbursement, the firm remitted an additional $60,136.73, which remains in escrow. The firm continues to have an outstanding liability to the DOE.

[11] This Mountain Fuel Supply Co. case involves a different DOE consent order from the one that was the subject of the Final Decision and Order published at 14 DOE ¶ 85,475 (1986).

[12] *See* note 11.

[13] This case involves the crude oil pool established in case number BEF-0032. *See* 9 DOE ¶ 82,551 (1982) and 13 DOE ¶ 85,323 (1985).

[14] The principal amount of the crude oil pool established in *Standard Oil Co. (Indiana)*, 10 DOE ¶ 85,048 (1982), was $22,104,125.26. Pursuant to the Warner Amendment, the DOE distributed $9,118,047.07 in principal from the crude oil pool to the states. Accordingly, there remained $12,986,078.19 in principal at the time of the Stripper Well Settlement Agreement. As of July 31, 1986, the total amount of principal plus interest in the account was $25,669,450.87. Eighty percent of that amount equals $20,535,560.70. On Aug. 4, 1986, $20 million from this account was distributed to the states and federal government pursuant to the settlement agreement. *See,* 14 DOE ¶ 85,382 (1986). Therefore, an additional $535,560.70 in interest was available, as of that date, for disbursement to the states and federal government. $46,351.43 in additional interest has accrued on that amount from July 31, 1986 to Dec. 31, 1987. Therefore, a total of $581,912.13 in interest is available for immediate disbursement to the states and federal government from this account.

[15] This case involves the crude oil pool proposed in case number KEF-0081. *See* 52 Fed. Reg. 18443 (May 15, 1987).

[16] This case involves the crude oil pool established in case number HEF-0009. *See* 12 DOE ¶ 85,166 (1985).

[17] Earl E. Wall continues to have an outstanding liability to the DOE.

Appendix C

RF272-

DOE Use Only

Suggested Format For End-users

Subpart V Crude Oil Refund Application

1. Name of Applicant Firm: _____

Address: _____

Name(s) under which Firm did business between August 19, 1973 and January 27, 1981:

2. To whom should refund check be made out?

Address to which check should be sent:

Contact Person: _____
Daytime Telephone:
(_____)
(_____)

3. Describe the nature of your business. How did you use the petroleum products?

4. (a) Total gallonage for which refund is requested (from page 2):

(b) Please identify the source of records used to compute this figure (e.g. invoices, tax records).

If you estimated your purchases, please explain how you arrived at the estimates. Use additional sheets if necessary.

I swear (or affirm) that the information contained in this application and its attachments is true and correct to the best of my knowledge and belief, and that neither I, my parent firm, nor any affiliates have elsewhere waived their right to a refund.

Date

Signature of Applicant

Title

Schedule

Yearly Purchases of Refined Petroleum Products (In Gallons)

Name of Applicant: _____

	Name of Product	Name of Product	Name of Product
Aug. 19 through Dec. 1973			
1974			
1975			
1976			
1977			
1978			
1979			
1980			
Jan. 1981			
Total			

Grand Total Gallonage for all Products

(Enter this number at question 4(a) on page 1 of application form.)

[FR Doc. 88-2849 Filed 2-9-88; 8:45am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3326-2]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review, and is available to the public for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instruments.

FOR FURTHER INFORMATION CONTACT: Carla Levesque at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Water/Office of Pesticides and Toxic Substances

Title: Study on Dioxin Formation During Bleaching of Wood Pulp (EPA ICR # 1439).

Abstract: This study will request information on the formation of dioxins/furans during the bleaching of chemical wood pulp from 105 pulp mills. EPA will use the information to assess the need for regulations, modify NPDES permit limits, and characterize the full range of risks imposed by dioxin in bleached wood pulp.

Respondents: Pulp and paper manufacturers using chlorine or chlorine derivatives in bleaching operations.

Estimated Burden: 35,133 hours.

Frequency of Collection: One-time.

Comments on the ICR should be sent to:

Carla Levesque, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M Street SW., Washington, DC 20460

and

Timothy Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place NW., Washington, DC 20503, (Telephone (202) 395-3084).

Date: February 4, 1988.

David Schwarz,

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 88-2805 Filed 2-9-88; 8:45 am]

BILLING CODE 6560-50-M

[OPP-00254; FRL-3325-9]

State-FIFRA Research and Evaluation Group (SFIREG); Open Meeting of Working Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 1-day meeting of the State FIFRA Issues Research and Evaluation Group (SFIREG). The meeting will be open to the public.

DATE: Thursday, March 3, 1988, beginning at 8:30 a.m. and ending by mid-afternoon.

ADDRESS: The meeting will be held at: Hyatt-Regency-Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202, (703) 486-1234).

FOR FURTHER INFORMATION CONTACT: By mail: Philip H. Gray, Jr., Office of Pesticide Programs (TS-766C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 1115C, CM #2, 1921 Jefferson Davis Highway, Arlington, Virginia 22202, (703) 557-7086.

SUPPLEMENTARY INFORMATION: The tentative agenda for the meeting thus-far includes the following topics:

1. Action items from the December 1987 meeting of the full Group.
2. Regional reports.
3. Working Committee reports.
4. Other topics which may have arisen during the February 29-March 2, 1988 meeting of the Association of American Pesticide Control Officials.

Dated: February 1, 1988.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 88-2693 Filed 2-9-88; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180755; FRL-3325-2]

Receipt of Application for an Emergency Exemption From Wisconsin To Use Mancozeb; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Wisconsin Department of Agriculture, Trade and Consumer Protection (hereafter referred to as "Applicant") to use the fungicide mancozeb to treat 1,875 acres of cultivated American ginseng (*Panax quinquefolium* L.) to control foliar infection caused by *Phytophthora cactorum* and stem blight caused by *Alternaria panax*. EPA, in accordance with 40 CFR 166.24, is required to issue a notice of receipt and solicit public comment before making the decision whether to grant the exemption.

DATE: Comments should be received on or before February 25, 1988.

ADDRESS: Three copies of written comments, bearing the identification notation "OPP-180755," should be submitted by mail to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 236 CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Robert Forrest, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716D, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1806).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any provision of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue a specific exemption to permit use of the fungicide mancozeb (CAS 8018-01-7) available as Dithane M-45, EPA Reg. No. 707-78. Information in accordance with 40 CFR Part 166 was submitted as part of this request. The Applicant was granted emergency exemptions for use of Dithane M-22 (maneb) on ginseng to control *Alternaria* in 1984 and 1985, but not in 1986. An emergency exemption for use of iprodione on gingseng to control *Alternaria* was granted in 1986. The Applicant indicates that a population of *Alternaria*, located in the ginseng growing area in Wisconsin, developed resistance to iprodione. In addition, an epidemic of *Phytophthora* foliar infection occured in 1986, despite the use of iprodione. According to the Applicant, without effective control, ginseng growers could experience a 25 to 50 percent crop loss due to *Phytophthora* leaf blight and root rot and a 50 to 100 percent crop loss is *Alternaria* can not be effectively managed.

Dithane M-45 will be applied at weekly intervals by ground application equipment at a rate of 1.6 pounds active ingredient (2 pounds product) per acre during the growing season (late May through September). Dithane M-45 will be applied only during the first three growing seasons. No applications are to be made within one-year of harvest.

A Decision Document (EBDC Pesticides; Initiation of Special Review) for the ethylene bisdithiocarbamate fungicides (EBDC's), which includes mancozeb, was issued July 17, 1987 (52 FR 27172). The Agency initiated this action based on an assessment of the risk from exposure to ethylenethiourea (ETU) present in, or formed as a result of metabolic conversion from pesticide products containing the active ingredient mancozeb. ETU, a potential human carcinogen, teratogen, and thyroid toxicant, is present as a contaminant, degradation product, and metabolite of all the EBDC pesticides. The Agency, therefore, believes that the level of potential risk from mancozeb products, coupled with the presence of and conversion to ETU in all other EBDC pesticide products, warrants an assessment of the risks and benefits of all EBDC pesticides as a group. The Registration Standard for mancozeb was issued April 1987. The Registration Standard outlines data to be required by the Agency.

The notice does not constitute a decision by EPA on this application. The regulations governing section 18 require publication of a notice in the **Federal Register** of receipt of an application for a specific exemption proposing use of a pesticide which contains an active ingredient which has been the subject of a Special Review and is intended for a use that could pose a risk similar to the risk posed by any use of a pesticide which is or has been the subject of a Special Review (40 CFR 166.24(a)(5)). The risks considered in that document which could be similar to the risks posed by this proposed use are oncogenicity; teratogenicity; and thyroid toxicity. Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address given above. The Agency will review and consider all comments received during the comment period in determining whether to issue this emergency exemption request.

Dated: January 27, 1988.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 88-2445 Filed 2-9-88; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-830024H; FRL-3326-4]

Toxic and Hazardous Substances Control; Decision on Exclusion/Waiver Applications of Seven Companies; Aldrich Chemical Co., et al.

AGENCY: Evironmental Protection Agency (EPA).

ACTION: Notice of decision on exclusion/waiver requests.

SUMMARY: EPA under 40 CFR Part 766 requires testing of specified chemical substances to determine whether they are contaminated with halogenated dibenzo-p-dioxins (HDDs) or halogenated dibenzofurans (HDFs). EPA received requests for exclusions from and/or waivers of these requirements from seven companies. This document contains the Agency's decisions on those requests.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Enviornmental Protection Agency, Rm. E-543, 401 M

Street SW., Washington, DC 20460, (202–554–1404).

SUPPLEMENTARY INFORMATION: EPA under 40 CFR Part 766 (52 FR 21412, June 5, 1987) requires testing of certain chemical substances to determine whether they may be contaminated with HDDs and HDFs.

I. Background

Under 40 CFR 766.32(a)(1) (i) and (ii), a person may be granted an exclusion from the testing requirements of Part 766 if appropriate testing of the chemical substance has already been done or the process and reaction conditions are such that HDDs/HDFs would not be produced.

A waiver of the testing requirements of Part 766 may be granted under 40 CFR 766.32(a)(2) (i) and (ii) if: (1) 100 kilograms or less of the product are produced annually exclusively for research and development, or (2) the cost of testing would be so high as to drive the chemical substance off the market or prevent resumption of manufacture and it will be produced in such a manner that there will be no unreasonable risk during manufacture, import, processing, distribution, use, or disposal of the substance. Under 40 CFR 766.32(a)(2)(iii), waivers may be appropriately conditioned with respect to such factors as time and conditions of manufacture and use.

Under the regulation, a request for either an exclusion or waiver must be made before September 3, 1987, for persons manufacturing, importing, or processing, a chemical substance as of June 5, 1987, or 60 days prior to resumption of manufacture or import of a chemical substance not being manufactured or processed as of June 5, 1987.

II. Receipt of Requests for Waiver

EPA received requests for exclusion from and/or waivers of testing requirements from the following seven companies: Aldrich Chemical Co., Inc., Ameribrom, Inc., Atochem, Inc., Ethyl Corporation, Great Lakes Chemical Corporation, Pfister Chemical, Inc., and Sigma Chemical Company. The Agency has decided to grant Aldrich's request for a waiver for 6 of 17 chemicals requested. For the remaining 11 chemicals, Aldrich is not subject to the testing and reporting requirements of the rule. Regarding Ameribrom, the Agency has decided to deny its request for an exclusion for four chemicals and its request for a waiver for the same four chemicals. For Atochem, the Agency finds that the company is not subject to the testing and reporting requirements of the rule. The Agency has decided to deny Ethyl's request for an exclusion for two chemicals. For Great Lakes Corporation, the Agency will grant an exclusion for one of nine chemicals requested and deny the company's request for the eight remaining chemicals. In addition, the Agency will deny Great Lakes' request for a waiver for two chemicals. The Agency has decided to deny Pfister's request for an exclusion for one chemical and a waiver for the same chemical. For Sigma, the Agency will grant a waiver for two of four chemicals requested. For the remaining two chemicals, Sigma is not subject to the testing and reporting requirements of the rule.

Aldrich Chemical Company

Aldrich Chemical Company requests a research and development waiver under 40 CFR 766.32(a)(2)(i) for 16 chemicals, a process and reaction exclusion under 40 CFR 766.32(a)(1)(ii) for the same 16 chemicals (plus two additional chemicals), and an economic waiver under 40 CFR 766.32(a)(1)(ii) for one chemical.

The Agency confirms that Aldrich qualifies for a research and development waiver for the 5 of 16 chemicals requested that Aldrich identified as imported after January 1, 1984. However, should Aldrich produce these chemicals in quantities above 100 kilograms per year in the future, the Agency requires that Aldrich report this to the Agency and comply with the requirements of the rule for such chemicals.

Aldrich imported another 5 of the 16 chemicals prior to January 1, 1984. According to the rule, only chemical substances manufactured, imported, or processed between January 1, 1984 and June 5, 1987, are subject to testing. Since these chemicals fall outside this timeframe, they are not subject to testing. However, should Aldrich import these chemicals in the future, the Agency requires that Aldrich report this to the Agency and comply with the requirements of the rule for such chemicals.

Aldrich identified the remaining 6 of the 16 chemicals as being domestically procured. Under the rule (40 CFR 766.20(a)), Aldrich is considered a processor of these chemicals and therefore, not subject to the testing and report requirements. However, if manufacturers or importers of these substances fail to sponsor testing, the Agency will issue a **Federal Register** notice informing processors of that chemical substance(s). Processors will then have 30 days to submit either a letter of intent to test or an exemption application.

Aldrich requested a process and reaction exclusion under 40 CFR 766.32(a)(1)(ii) for the same 16 chemicals (plus two additional chemicals) as those claimed in its R&D waiver request. Since the Agency is granting the R&D waiver request for the 16 original chemicals subject to testing and reporting requirements, the Agency considered it unnecessary to address Aldrich's process and reaction exclusion request.

Aldrich identified one of the two additional chemicals for which it requested a proces exclusion as being domestically procured. Under the rule, Aldrich is considered a processor of these chemicals and, therefore, is not subject to the testing and reporting requirements. However, if manufacturers or importers of these substances fail to sponsor testing, the Agency will issue a **Federal Register** notice informing processors of that chemical substance(s). Processors will then have 30 days to submit either a letter of intent to test or an exemption application.

Since the Agency is granting an economic waiver for the other chemical (2,4-Dichlorophenol (CAS No. 120–83–2)), the Agency considered it unnecessary to address Aldrich's process and reaction exclusion request for that chemical.

The Agency grants Aldrich's request for an economic waiver under 40 CFR 766.32(a)(2)(ii) for 2,4-Dichlorophenol (CAS No. 120–83–2). The Agency finds that testing costs would indeed drive the chemical off the market as the reported value of the product is far less than the anticipated annualized cost of testing. Similarly, the Agency confirms that Aldrich's processing of 2,4-Dichlorophenol will pose no unreasonable risk to persons handling the materials, as the chemical is only used for laboratory purposes and is marked with warning labels. However, should Aldrich import more than the amount indicated in its confidential business information (CBI) submission, the Agency requires that the company report this to us and comply with the testing and reporting requirements of the rule.

Ameribrom, Inc.

Ameribrom, Inc. requests a process and reaction exclusion under 40 CFR 766.32(a)(1)(ii) for four chemicals and an economic waiver under 40 CFR 766.32(a)(2)(ii) for the same four chemicals.

The Agency denies that Ameribrom qualifies for a process exclusion for the following chemicals:

Decabromodiphenyloxide (CAS No. 1163–19–5)
Octabromodiphenyloxide (CAS No. 32536–52–0)
Pentabromodiphenyloxide (CAS No. 32534–81–9)
Tetrabromobisphenol-A (CAS No. 79–94–7)

The Agency based its analysis on Ameribrom's specific process and reaction conditions described for each chemical, and other data available to the Agency, including information previously submitted by Ameribrom.

The Agency decided to deny Ameribrom's process exclusion requests for Pentabromodiphenyloxide and Octabromodiphenyloxide because Ameribrom supplied no process or reaction condition data. For Decabromodiphenyloxide, the Agency has information which indicates the potential for formation of brominated dibenzofurans. For Tetrabromobisphenol-A, data available to the Agency indicate the potential for dioxin formation.

In addition, the Agency denies Ameribrom's request for an economic waiver under 40 CFR 766.32(a)(2)(ii) for the following chemicals:

Decabromodiphenyloxide (CAS No. 1163–19–5)
Octabromodiphenyloxide (CAS No. 32536–52–0)
Pentabromodiphenyloxide (CAS No. 32534–81–9)
Tetrabromobisphenol-A (CAS No. 79–94–7)

The Agency decided to deny Ameribrom's waiver request for Tetrabromobisphenol-A and Decabromodiphenyloxide because it did not include any information not already addressed in the Agency's economic analysis for the final rule. The Agency's economic analysis found little likelihood that any chemical would be removed from the market due to testing costs.

For Octabromodiphenyloxide and Pentabromodiphenyloxide, EPA recognizes that new information submitted by Ameribrom raises the possibility that testing costs may cause Ameribrom to withdraw these chemicals from the market. However, on balance, evidence suggests that sufficient economic and business incentives exist to make Ameribrom continue its domestic sales. First, Ameribrom's average prices for the two chemicals are well below current market prices of other suppliers. Second, the market for brominated flame retardants is expected to expand rapidly. Given these factors, EPA believes that additional revenues from price increases or expanding sales could offset the cost of testing. Finally, EPA believes that, with or without these economic incentives, Ameribrom would continue domestic sales of these chemicals because removal of the chemicals from the market would reduce the flexibility of Ameribrom's product line and limit the marketability of its other brominated flame retardants.

In addition, the Agency found insufficient evidence to support a finding of no unreasonable risk as required for an economic waiver under 40 CFR 766.32(a)(2)(ii). The Agency based its decision on Ameribrom's failure to provide any information that would alter the agency's assessment of risk for the final rule. In the rulemaking record, EPA found that the chemicals subject to the rule may present an unreasonable risk such that testing at specified levels is required. Chemicals contaminated even with trace levels of 2, 3, 7, 8-substituted HDDs/HDFs may be toxic. Given the Agency's determination that Ameribrom could continue chemical production under current market conditions, the potential risks involved justify the economic burden of testing.

Atochem, Inc.

Atochem, Inc. requests an economic waiver udner 40 CFR 766.32(a)(2)(ii) for Pentabromodiphenyloxide (CAS No. 32534–81–9). The agency finds that Atochem is not subject to the testing and reporting requirements of the rule, based on the fact that Atochem no longer imports Pentabromodiphenyloxide and is returning the remaining inventory to the supplier. However, should Atochem resume importation of this chemical substance, the Agency requires that the company report this to us and comply with the requirements of the rule.

Ethyl Corporation

Ethyl Corporation requests an exclusion under 40 CFR 766.32(a)(1)(i) and (ii) for one chemical and an exclusion under 40 CFR 766.32(a)(1)(ii) for another chemical.

EPA denies Ethyl Corporation's request for an exclusion under 40 CFR 766.32(a)(1)(i) and (ii) for Tetrabromobispenol-A (CAS No. 79–94–7) and under 40 CFR 766.32(a)(1)(ii) for Decabromodiphenyloxide (CAS No. 1163–19–5).

The Agency based its analysis supporting denial on Ethyl's specific process and reaction conditions described for each chemical and other data available to the Agency.

Great Lakes Chemical Corporation

Great Lakes Chemical Corporation requests an exclusion under 40 CFR 766.32(a)(1)(ii) for nine chemicals and a waiver under 40 CFR 766.32(a)(2)(ii) for one chemical.

The agency grants Great Lakes' request for an exclusion under 40 CFR 766.32(a)(1)(ii) for Tetrabromobisphenol-A-bis-2,3-dibromopropyl ether (CAS No. 21850–44–2). However, the Agency denies Great Lakes' exclusion request for the following chemicals:

Allyl ether of tetrabromobisphenol-A (CAS No. 25327–89–3)
1, 2-Bis(tribromophenoxy)-ethane (CAS No. 37853–59–1)
Decabromodiphenyloxide (CAS No. 1163–19–5)
Octabromodiphenyloxide (CAS No. 32536–52–0)
Pentabromodiphenyloxide (CAS No. 32534–81–9)
Tetrabromobisphenol-A (CAS No. 79–94–7)
Tetrabromobisphenol-A-bisethoxylate (CAS No. 4162–45–2)
2,4,6-Tribromophenol (CAS No. 118–79–6)

The Agency based its analysis on great Lakes' specific process and reaction conditions described for each chemical, process similarities between these and other chemicals for which Great Lakes submitted exclusion requests and other data available to the Agency, including information previously submitted by Great Lakes.

The Agency decided to grant an exclusion for Tetrabromobisphenol-A-bis-2,3-dibromopropyl ether because the specific chemical process conditions used to manufacture Tetrabromobisphenol-A-bis-2,3-dipbromopropyl ether are not anticipated to result in further dioxin formation.

This exclusion is process specific. If Great Lakes changes its manufacturing process for Tetrabromobisphenol-A-bis-2,3-dibromopropyl ether, the Agency requires that the company apply for another exclusion.

In addition, the Agency denies Great Lakes' request for a waiver under 40 CFR 766.32(1)2(ii) for Allyl ether of tetrabromobisphenol-A (CAS No. 25327–89–3) and Tetrabromobisphenol-A-bis-2,3-dibromopropyl ether (CAS No. 21850–44–2) based on the Agency's review of data submitted in the waiver request and the Agency's economic analysis supporting the final rule.

The Agency is denying Great Lakes' waiver request because it contains no information not already addressed in the Agency's economic analysis for the final rule, which found little likelihood that any chemical would be removed from the market in the face of testing.

Pfister Chemical, Inc.

Pfister Chemical, Inc. requests a process and reaction exclusion under 40 CFR 766.32(a)(1)(ii) for 3,4',5-Tribromosalicylanilide (CAS No. 87-10-5) and an economic waiver under 40 CFR 766.32(a)(2)(ii) for the same chemical.

The Agency denies Pfister's request for a process exclusion for 3,4',5-Tribromosalicylanilide. The Agency based its analysis on Pfister's specific process and reaction conditions as described by the company for this chemical and other data available to the Agency. These data indicate the potential for dioxin formation.

In addition, the Agency denies Pfister's request for an economic waiver for 3,4',5-Tribromosalicylanilide. The Agency agrees, based on the cost and production data supplied by Pfister, that testing costs may be large enough to drive this chemical off the market. However, Pfister failed to provide any information that would alter the Agency's assessment of risk for the final rule as required for an economic waiver. In the rulemaking record, EPA found that chemicals subject to the rule may present an unreasonable risk such that testing at the specified levels is required. Chemicals contaminated even with trace levels of 2,3,7 8-substituted HDDs/HDFs may be toxic.

Pfister indicated in its submission that 3,4',5-Tribromosalicylanilide is used in consumer products such as paints, detergents, and cleaners. The Agency finds that the potential risks of this chemical, particularly from its presence in consumer products, outweighs the economic burden of testing and, therefore, justifies the requirement to test.

Sigma Chemical Company

Sigma Chemical Company requests a research and development waiver under 40 CFR 766.32(a)(2)(i) for four chemicals and a process and reaction exclusion under 40 CFR 766.32(a)(1)(ii) for one chemical.

The Agency grants Sigma's request for a research and development waiver for two of four chemicals Sigma identified as being imported. However, should Sigma produce these chemicals in quantities above 100 kilograms per year in the future, the Agency requires that Sigma report this to the Agency and comply with the requirements of the rule for such chemicals.

Sigma identified the remaining two chemicals as domestically procured, processed and resold. Under the rule, (40 CFR 766.20(a)) Sigma is considered a processor of these chemicals and, therefore, is not subject to the testing and reporting requirements. However, if manufacturers or importers of these substances fail to sponosr testing, the Agency will issue a **Federal Register** notice informing processors of that chemical substance(s). Processors will then have 30 days to submit either a letter of intent to test or an exemption application.

Regarding Sigma's process and reaction exclusion request for 2,4-Dichlorophenol (CAS No. 120-83-2), the Agency considers Sigma a processor and, therefore, not subject to the testing and reporting requirements of the rule. However, if manufacturers or importers of this substance fail to sponsor testing, the Agency will issue a **Federal Register** notice informing processors of that chemical substance(s). Processors will then have 30 days to submit either a letter of intent to test or an exemption application.

Finally, the Agency regrets the inadvertent omission of 2,3,5,6-Tetrachloro-2,5-cyclohexadiene-1,4-dione from Sigma's waiver request published in the **Federal Register** of November 10, 1987 (52 FR 43250).

III. Public Record

The Agency received no coments on any of the seven companies' exclusion and/or waiver requests.

The Agency has prepared a public version of an administrative file containing documents supporting these decisions. However, much of the analysis is not available in the public docket because it is based on confidential business information.

Dated: February 2, 1988.

Martin P. Halper,

Director, Exposure Evaluation Division.

[FR Doc. 88-2807 Filed 2-9-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Hearing; Douglas Gaines Harding et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and state	File No.	MM Docket No.
A. Douglas Gaines Harding; Shepherdsville, KY.	BPH-860311MH	88-4
B. Bullitt Broadcasting; Shepherdsville, KY.	BPH-860313MO	.....
C. John D. Harper; Shepherdsville, KY.	BPH-860314MI	.....
D. Julie N. Frew; Shepherdsville, KY.	BPH-860317MT	.....
E. Gene R. Osselmeier; Shepherdsville, KY.	BPH-860317MV	.....
F. Claire Tow; Shepherdsville, KY.	BPH-860317MW	.....
G. Don H. Barden; Shepherdsville, KY.	BPH-860317MX	.....

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicants.

1. Air Hazard, A
2. Comparative, All
3. Ultimate, All

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, N.W., Washington, DC. 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88-2743 Filed 2-9-88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Taylor Broadcasting Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and State	File No.	MM Docket No.
A. Taylor Broadcasting, Inc.; Bedford, N.H.	BPH-860714MA	88-3

Applicant, city and State	File No.	MM Docket No.
B. Colonial Communications, Inc.; Bedford, N.H.	BPH-860801MB	.....
C. Kirkley Paige Beal; Bedford, N.H.	BPH-860801MC	.....
D. Michael J. Hughes; Bedford, N.H.	BPH-860804MA	.....
E. Susan R. Beauchamp; Bedford, N.H.	BPH-860804MB	.....
F. Satellite Systems Engineering Inc.; Bedford, N.H.	BPH-860804MD	.....
G. Bedford Concepts, a California Limited Partnership; Bedford, N.H.	BPH-860804ME	.....
H. Donna M. MacNeil; Bedford, N.H.	BPH-860804MF	.....
I. Benjamin Macwan; Bedford, N.H.	BPH-860804MG	.....
J. Susan Tucker *et al.*, d/b/a Interstate Communications; Bedford, N.H.	BPH-860804MH	.....
K. Appledore Communications, Inc.; Bedford, N.H.	BPH-860804MI	.....
L. Bedford Radio Broadcasting Corporation; Bedford, N.H.	BPH-860804MO	.....
M. Airwave Communications, Inc.; Bedford, N.H.	BPH-860804MP	.....
N. Bedford Broadcasting Limited Partnership; Bedford, N.H.	BPH-860804MS	.....
O. Vernon C. Floyd; Bedford, N.H.	BPH-860804MQ	(Dismissed).

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The next of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name above is used below to signify whether the issue is question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Comparative, All Applicants
2. Ultimate, All Applicants

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88-2744 Filed 2-9-88; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreements No.:

(1) 202-000093-041
(2) 202-005200-054

Titles:

(1) North Europe-U.S. Pacific Freight Conference

(2) Pacific Coast European Conference

Parties (1) & (2):

Hapag-Lloyd AG
Johnson Scanstar
Compagnie Generale Maritime
Incotrans BV
Sea-Land Service, Inc.

Synopsis: The proposed amendments would specifically permit the parties to negotiate agreements with European inland carriers on transportation costs which are part of the member lines through transportation responsibility.

Agreement No.: 203-011117-001.

Title: North America-Australasia Interconference and Carrier Discussion Agreement.

Parties:

Pacific Coast/Australia-New Zealand Tariff Bureau
U.S. Atlantic & Gulf/Australia-New Zealand Conference
Blue Star Line Ltd.
Pacific Australia Direct Line
Associated Container Transportation (Australia) Ltd.

Synopsis: The proposed amendment would delete Shipping Corporation of New Zealand Limited as a party to the agreement and would add as parties Australia-New Zealand Direct Line and Ocean Star Line, A.G.

Agreement No.: 202-011137-002.

Title: Pacific Coast/Australia-New Zealand Tariff Bureau Discussion Agreement.

Parties:

Pacific Coast/Australia-New Zealand Tariff Bureau
Hong Kong Islands Line America S.A.
Leif Heogh & Co., A.S.

Synopsis: The proposed amendment would add Nedlloyd Lines as a party to the agreement and would delete Canada from the agreement's geographic scope. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: February 5, 1988.

[FR Doc. 88-2831 Filed 2-9-88; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87F-0417]

Insta Cool Inc. of North America; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Insta Cool Inc. of North America has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a mixture of fluorocarbon 113 and perfluorohexane to quickly chill whole chickens sealed in poly-bags.

FOR FURTHER INFORMATION CONTACT: Eric Flamm, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-426-8950.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7A4039) has been filed by Insta Cool Inc. of North America, 3235 Sunrise Blvd., Suite C, Rancho Cardova, CA 95670, proposing that 21 CFR Part 173—Secondary Direct Food Additives Permitted in Food for Human

Consumption be amended to provide for the safe use of a mixture of fluorocarbon 113 and perfluorohexane to quickly chill whole chickens sealed in poly-bags.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register**, in accordance with 21 CFR 25.40(c).

Dated: January 29, 1988.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 88-2756 Filed 2-9-88; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 88M-0005]

IVAC® Corp.; Premarket Approval of the IVAC® Titrator™ Sodium Nitroprusside Closed Loop Module—Model 10K

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by IVAC® Corp., San Diego, CA, for premarket approval, under the Medical Device Amendments of 1976, of the IVAC® Titrator™ Sodium Nitroprusside Closed Loop Module—Model 10K. After reviewing the recommendation of the General Hospital and Personal Use Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by March 11, 1988.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: George S. Mills, Center for Devices and Radiological Health (HFZ-420), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7750.

SUPPLEMENTARY INFORMATION: On December 30, 1986, IVAC® Corp., San Diego, CA 92138-5335, submitted to CDRH an application for premarket approval of the IVAC® Titrator™ Sodium Nitroprusside Closed Loop Module—Model 10K. The device is a microprocessor unit that controls the IVAC® closed loop sodium nitroprusside (SNP) regulating system. The IVAC® Titrator™ Sodium Nitroprusside Closed Loop Module—Model 10K, hereinafter referred to as the Titrator™, is indicated for use in adult patients who require an infusion of sodium nitroprusside to control blood pressure following cardiovascular surgery. SNP is a hypotensive agent used to control blood pressure. The Titrator™ measures the patient's mean arterial blood pressure and, based on any deviation between the patient's pressure and the physician's prescribed blood pressure setpoint, adjusts the SNP infusion rate to return the patient's blood pressure to the blood pressure setpoint. The external infusion pump, infusion set, IV catheter and transducer portions of the IVAC® closed loop SNP regulating system are pre-Amendment devices or have previously been determined to be substantially equivalent to other pre-Amendment devices and consequently do not require premarket approval.

On April 6, 1987, the General Hospital and Personal Use Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On December 17, 1987, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file with the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at the CDRH—contact George S. Mills (HFZ-420), address above.

Opportunity For Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 11, 1988, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554-555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: February 2, 1988.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 88-2758 Filed 2-9-88; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: New Orleans District Office, chaired by Robert O. Bartz, District Director. The topices to be discussed are cholesterol labeling and health claims on food labels.

DATE: Wednesday, February 24, 1988, 11 a.m.

ADDRESS: Southern University, School of Nursing Auditorium, Swan Ave., Baton Rouge, LA 70813.

FOR FURTHER INFORMATION CONTACT: Barbara Loyd, Consumer Affairs Officer, Food and Drug Administration, 4298

Elysian Fields Ave., New Orleans, LA 70122, 504–589–2420.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: February 4, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88–2757 Filed 2–9–88; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Pub. L. 92–463, the Annual Report for the following Health Resources and Service Administration Federal Advisory Committee has been filed with the Library of Congress:

Maternal and Child Health Research Grants Review Committee Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, Room 1026. Thomas Jefferson Building, Second Street and Independence Avenue SE., Washington, DC, or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, HHS North Building, Room G–400, 330 Independence Avenue SW., Washington, DC telephone (202) 245–6791. Copies may be obtained from: Gontran Lamberty, Dr. Ph.H., Executive Secretary, Maternal and Child Health Research Grants Review Committee, Room 6–17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–2190.

Date: February 4, 1988.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 88–2755 Filed 2–9–88; 8:45 am]

BILLING CODE 4160–15–M

Correction of Meeting Address

In Federal Register Document 88–1939 appearing on pages 2789–90 in the issue for Monday, February 1, 1988, the February 17 meeting of the "Subcommittee on Physician Manpower of the Council on Graduate Medical Education" will be held at the Hyatt Regency, 2799 Jefferson Davis Highway, Crystal City, Virginia 22262. All other information is correct as appears.

Date: February 5, 1988.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 88–2815 Filed 2–9–88; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–930–08–4332–13; FES88–7]

Environmental Impact Statement Availability; Red Mountain Wilderness Study Area; CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the final Environmental Impact Statement (EIS) on the Wilderness Recommendations for the Red Mountain Wilderness Study Area (WSA) in California.

SUMMARY: This EIS assesses the environmental consequences of managing the 6,173-acre Red Mountain WSA as wilderness or non-wilderness. The alternatives assessed include: (1) A "no wilderness/no action" alternative and (2) an "all wilderness" alternative.

The Final EIS proposed action for Red Mountain is to not designate the WSA wilderness.

The Bureau of Land Management wilderness proposals will ultimately be forwarded by the Secretary of the Interior to the President and from the President to Congress. The final decision on wilderness designation rests with Congress.

In any case, no final decision on this proposal can be made by the Secretary during the 30 days following the filing of this EIS. This complies with the Council on Environmental Quality Regulations, 40 CFR 1506.10b(2).

SUPPLEMENTARY INFORMATION: A limited number of individual copies of the EIS may be obtained from the Area Manager, Arcata Resource Area, P.O. Box 1112, Arcata, CA 95521. Copies are also available for inspection at the following locations:

Department of the Interior, Bureau of Land Management, 18th and "C" Streets NW., Washington, DC 20240

or

Bureau of Land Management, California State Office, 2800 Cottage Way, Room E–2841, Sacramento, CA 95825

or

Bureau of Land Management, Ukiah District Office, 555 Leslie Street, Ulkiah, CA 95482.

FOR FURTHER INFORMATION CONTACT: John Lloyd, Area Manager, Arcata Resource Area, P.O. Box 1112, Arcata, CA 95521, (707) 822–7648.

Date: February 5, 1988.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 88–2819 Filed 2–9–88; 8:45 am]

BILLING CODE 4310–40–M

[AZ–020–08–4322–12]

Kingman Resource Area Grazing Board; Open Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting—Kingman Resource Area Grazing Board.

SUMMARY: The Kingman Resource Area Grazing Advisory Board will hold a meeting on Tuesday, March 8, 1988. The meeting will start at 9:00 a.m. in the Kingman Resource Area Conference Room, 2475 Beverly Avenue, Kingman, Arizona 86401.

The agenda for the meeting will include:

1. Update of the Bureau's Exchange Program.
2. Status of the Bureau's Planning and Environmental Impact Statements.
3. Status of Grazing program.
4. Report on Range Improvements for F.Y. '87 and F.Y. '88.
5. Range Policy Update.
6. Request for Advisory Board Expenditures.
7. Arrangements for Future Meetings.

The meeting is open to the public. Anyone wishing to make oral or written statements to the Board is requested to do so through the office of the District Manager, 2015 West Deer Valley Road, Phoenix, Arizona 85027, at least seven days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Henri R. Bisson,

District Manager.

Dated: January 26, 1988.

[FR Doc. 88–2830 Filed 2–9–88; 8:45 am]

BILLING CODE 4310–32–M

[AZ-040-07-4332-02]

Meeting of the Safford District (Arizona) Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR Part 1780, that a meeting of the Safford District Advisory Council will be held.

DATE: Friday, March 11, 1988, at 10:00 a.m.

ADDRESS: Oscar Yrun Community Center, 3020 Tacoma, Sierra Vista, Arizona 85635.

FOR FURTHER INFORMATION CONTACT: Gil Esquerdo, Public Affairs Specialist, Safford District Office, 425 E. 4th Street, Safford, Arizona 85546. Telephone (602) 428-4040.

SUPPLEMENTARY INFORMATION: The agenda for the meeting includes the following items: Nomination and election of Chairperson and Vice Chairperson; Water Rights on the San Pedro; State Land Exchanges; RMP update; Management update; and Business from the floor.

The meeting is open to the public. Interested persons may make oral statements to the Council between 1:30 and 2:30 p.m. or may file written statements for the Council's consideration. Anyone wishing to make an oral statement must contact the Safford District Manager by March 10, 1988. Depending upon the number of people wishing to make oral statements, a per person time limit may be considered.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Date: February 8, 1988.

Ray A. Brady,

District Manager.

[FR Doc. 88-2769 Filed 2-9-88; 8:45 am]

BILLING CODE 4310-32-M

[AZ-020-08-4212-13; A-22792-A]

Realty Action; Exchange of Public Lands, Maricopa and Mohave Counties, AZ

The following described Federal lands have been determined to be suitable for disposal by exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Base and Meridian, Maricopa County, Arizona

Township 4 North, Range 1 East,
Section 3, Lots 1-3, 11-15, 19, 20, S½NE¼, NE¼SE¼.
Township 5 North, Range 1 East,
Section 27, W½W½NW¼;
Section 34, S½N½NE¼NE¼, S½NE¼NE¼, W½NE¼, SE¼NE¼, E½SE¼SW¼, SE¼.
Comprising 768.83 acres, or less.

In exchange for the above described public lands, the United States will acquire all or part of the below-described private lands from Talley Realty Development, Incorporated, a Delaware corporation, or their nominee.

Gila and Salt River Base and Meridian, Mohave County, Arizona

Township 20 North, Range 15 West,
Sections 5, 7, 9, 17, 19, 21 and 31.
Township 20 North, Range 16 West,
Sections 1, 2 and 12.
Township 21 North, Range 15 West,
Sections 19-23, 26-31, 33 and 35.
Township 21 North, Range 16 West,
Sections 13-15, 23-31 and 33-35.
Township 19 North, Range 15 West,
Section 5.
Comprising 22,907 acres, more or less.

The exchange proposal involves all of the exchange proponent's interest in the surface of the private lands and the surface and mineral estate of the public lands. The exchange is consistent with the Bureau's land use planning objectives.

Lands to be transferred from the United States will be subject to the following reservations, terms and conditions:

1. A right-of-way for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.
2. Right-of-way AR-024000 to Arizona Public Service Company for electric transmission line purposes.
3. Right-of-way PHX-086584 to Maricopa County Municipal Water Conservation District.
4. Right-of-way A-22981 to Maricopa County Highway Department for road purposes.
5. All valid existing rights.

The lands to be acquired by the United States from Talley Realty Development, Incorporated, shall be subject to certain easements, permits, and other encumbrances detailed in Schedule B of TransAmerica Title Insurance Policy 45024914.

In accordance with the regulations of 43 CFR 2201.1(b), publication of this Notice shall segregate the affected public lands from appropriation under the public land laws, including the mining laws, and from any subsequent land exchange proposals filed by any proponent other than Talley Realty Development, Incorporated, or their nominee.

The segregation of the described selected lands shall terminate upon issuance of a document conveying title to such lands or upon publication in the **Federal Register** of a notice of termination of the segregation, or the expiration of two years from the date of initial publication (June 25, 1987), whichever occurs first.

Upon completion of the official appraisal, acreage adjustments will be made to equalize the values of the offered and selected lands.

For a period of forty-five (45) days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Phoenix District Manager, Bureau of Land Management, 2015 West Deer Valley Road, Phoenix, Arizona 85027. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Henri R. Bisson,

District Manager.

Date: February 4, 1988.

[FR Doc. 88-2796 Filed 2-9-88; 8:45 am]

BILLING CODE 4310-32-M

[MT-060-88-4333-12]

Commercial Permit Applications; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Open season for commercial permit applications on the Upper Missouri National Wild & Scenic River.

SUMMARY: This notice establishes an "open season" for applying for Special Recreation Use Permits on the Upper Missouri National Wild and Scenic River in Montana required of all commercial float boating operations. Other requirements of commerical outfitting and guiding operations remains as outlined in the **Federal Register**, Vol. 49, No. 29, Friday, February 10, 1984, entitled "Special Recreation Permit Policy".

All outfitters and pilots using motorized craft must produce a copy of their U.S. Coast Guard operator's license before receiving a permit (46 CFR Part 1 et. al.).

ADDRESS AND DATES: Applications must be sent to the Lewistown District Bureau of Land Management, Airport Road,

Lewistown, Montana 59457 between February 14 and March 29, 1988.

FOR FURTHER INFORMATION CONTACT: River Manager, Airport Road, Lewistown, Montana 59457. Telephone Number: (406) 538–7461.

Wayne Zinne

District Manager.

Date: February 1, 1988.

[FR Doc. 88–2768 Filed 2–9–88; 8:45 am]

BILLING CODE 4310-DN-M.

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–724548

Applicant: New York Zoological Society, Bronx, NY

The applicant requests a permit to import one male and one female captive-born lion-tailed macaque (*Macaca silenus*) from the National Zoological Park, New Delhi, India, for the purpose of propagation of the species.

PRT–724123

Applicant: John F. Nuccitelli, Webster, NY

The applicant requests a permit to purchase one pair of captive-bred Elliot's pheasants (*Syrmaticus ellioti*) and one pair of captive-bred Hawaiian geese (=Nene) (*Nesochen* (=*Branta*) *sandvicensis*) from Sylvan Heights Waterfowl, Sylvia, North Carolina for the purpose of enhancement of propagation.

PRT–724557

Applicant: John Newman, Frankston, TX

The applicant requests a permit to purchase one captive-bred female Hawaiian goose (=*Nene*) (*Nesochen* (=*Branta*) *sandvicensis*) from Marc K. McKay, Ridgeland, Mississippi for the purpose of enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 403, 1375 K Street NW., Washington DC. 20005, or by writing to the Director, U.S. Office of Management Authority, P.O. Box 27329, Central Station, Washington, 20038–7329.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Date: February 5, 1988.

Larry La Rochelle,

Acting Chief, Branch of Permits.

[FR Doc. 88–2853 Filed 2–9–88; 8:45 am]

BILLING CODE 4310-AN-M

Bureau of Indian Affairs

Intention To Prepare an Environmental Impact Statement; Santa Ana Pueblo Indian Reservation (Near Bernalillo, NM) for the Albuquerque International Raceway

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of intent and public scoping meeting.

SUMMARY: This notice advises the public that the Bureau intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS for the proposal to lease 525 acres of the Santa Ana Pueblo Indian Reservation [near Bernalillo, New Mexico]) for a major international auto raceway in Sandoval County. Public scoping meetings will be held to receive input and questions from members of the public regarding this proposal and preparation of this EIS. This notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments participation in this scoping process are solicited.

DATES: Written comments should be received March 11, 1988. Two public meetings will be held on Tuesday, March 1, 1988. One will be at 10:00 a.m. in the Conference Room of the Santa Ana Pueblo Governor's Office, 2 miles north of Bernalillo, New Mexico (Telephone: (505) 867–3301). The other will be held at 7:00 p.m. in the Conference Room, Churchill II, of the Amberly Suites Hotel, 7620 Pan American Freeway NE., Albuquerque, New Mexico.

ADDRESSES: Comments should be addressed to Mr. Sidney Mills, Area Director, Albuquerque Area Office, Bureau of Indian Affairs, P.O. Box 26567, Albuquerque, New Mexico 87125–6567.

FOR FURTHER INFORMATION CONTACT: Marcus Sekayouma, Area Environmental Protection Specialist, or Bruce G. Harrill, Area Archeologist, Albuquerque Area Office, Bureau of Indian Affairs, P.O. Box 26567, Albuquerque, New Mexico 87125–6567, (Telephone: (505) 766–3374, or FTS 474–3374).

SUPPLEMENTARY INFORMATION: The Bureau of Indian Affairs (BIA), Department of the Interior, proposes to issue a lease for approximately 525 acres of the Santa Ana Pueblo Indian Reservation to Raceway Development Corporation so they can build a major international auto raceway. This would support Indy car racing, stock car racing, world endurance racing, and professional sports car racing. The raceway would be located north of the junction of New Mexico State Road 528 with State Road 44 and about 2 miles northwest of the town of Bernalillo in Sandoval County, New Mexico.

The facility would provide a paved 2-mile oval track and a road track course. Seating would be provided for 40,000 spectators, and additional facilities would include hospitality suites, special driver accommodations, racing team garages, restroom facilities and offices. Up to four major racing events per year would be scheduled for the racing facility. During the balance of the year the facility is planned to support auto manufacturer vehicle endurance testing, a non-spectator activity.

The purpose and need for this action is that the Tribe would like to enhance tribal revenue and employment through prudent leasing and orderly development or reservation lands.

The principal alternatives identified are to build the project as planned, not to build the project, build a smaller project, use a different location, or use the land for other purposes. Potential environmental impacts that may be of concern are exhaust emissions, traffic, noise, water usage, sewage disposal, and socio-economic adjustments.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 *et seq.*), Council on Environmental Quality Regulations (40 CFR Parts 1500–1508). Department of the Interior procedures (516 DM 1–6), and the Bureau of Indian Affairs Handbook (30 BIAM Supplement 1) for compliance with the procedures.

We estimate that the draft EIS will be made available to the public no later than June 1988.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Date: February 3, 1988.

W.P. Ragsdale,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 88-2747 Filed 2-9-88; 8:45 am]

BILLING CODE 4310-02-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Overseas Private Investment Corporation

Agency Report Forms Under OMB Review

AGENCY: Overseas Private Investment Corporation, IDCA.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the Agency has made such a submission. The proposed form under review is summarized below.

DATE: Comments must be received by February 24, 1988. If you anticipate commenting on the form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Submitting Officer of your intent as early as possible.

ADDRESS: Copies of the subject form and the request for review submitted to OMB may be obtained from the Agency Submitting Officer. Comments on the form should be submitted to the Agency Submitting Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

OPIC Agency Submitting Officer: L. Jacqueline Brent, Office of Personnel and Administration, Overseas Private Investment Corporation, Suite 461, 1615 "M" Steet NW., Washington, DC 20527; Telephone (202) 457-7151.

OMB REVIEWER: Francine Picoult, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; Telephone (202) 395-7340.

Summary of Form Under Review

Type of Request: Extension

Title: Application for Political Risk Investment Insurance.

Form Number: OPIC—52.

Frequency of Use: Other—once per investor per project.

Type of Respondent: Business or other institutions (except farms).

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies investing overseas.

Number of Responses: 350.

Reporting Hours: 700.

Federal Cost: $10,000.

Authority for Information Collection: Sec. 231 of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): Pursuant to OPIC's statute OPIC must screen each applicant for investment insurance in order to determine the eligibility of the investor, assess the political risks of the project, and calculate the economic and development effects of the project in the host country and in the U.S. The OPIC Form 52 enables OPIC to collect this information in order to carry out Congress's mandate to manage the program prudently and to assure that no project is supported which has a significant adverse effect on U.S. employment.

Date February 3, 1988.

Mildred A. Osowski,

Office of the General Counsel.

[FR Doc. 88-2761 Filed 2-9-88; 8:45 am]

BILLING CODE 3210-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-278]

Certain Programmable Digital Clock Thermostats; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a settlement agreement: Hunter-Melnor, Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on February 5, 1988.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington DC 20436, telephone 202-252-1000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

Written Comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 500 E Street SW., Washington, DC 20436, no later than 10 days after publication of this Notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-252-1805.

By order of the Commission.

Kenneth R. Mason,

Secretary

Issued: February 5, 1988.

[FR Doc. 87-2842 Filed 2-9-88; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-281]

Investigation of Certain Recombinant Erythropoietin

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337 and 19 U.S.C. 1337a.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 4, 1988, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337 and 19 U.S.C. 1337a), on behalf of Amgen Inc., 1900 Oak Terrace Lane, Thousand Oaks, California 91320. An amendment to the

complaint and supplemental exhibits were filed on January 20, 1988. The complaint, as amended, alleges unfair methods of competition and unfair acts in the importation into and sale in the United States of certain recombinant erythropoietin manufactured abroad by a process which, if practiced in the United States, would infringe claims 2, 4–7, 23–25, and 27–29 of U.S. Letters Patent 4,703,008. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an efficiently and economically operated domestic industry and/or to prevent the establishment of such an industry in the United States.

The complainant requests that the Commission institute an investigation and after a full investigation, issue a permanent exclusion order and permanent cease and desist orders.

FOR FURTHER INFORMATION CONTACT: Marcia H. Sundeen, Esq., or Cheri M. Taylor, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–252–1573 and 202–252–1568, respectively.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and 19 U.S.C. 1337a, and in § 210.12 of the Commission's rules of practice and procedure (19 CFR 210.12).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on February 2, 1988, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation into and sales in the United States of certain recombinant erythropoietin manufactured abroad by a process which, if practiced in the United States, would infringe claims 2, 4–7, 23–25 or 27–29 of U.S. Letters Patent 4,703,008, the effect or tendency of which is to destroy or substantially injure an efficiently and economically operated domestic industry, and/or to prevent the establishment of such an industry in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Amgen Inc., 1900 Oak Terrace Lane, Thousand Oaks, California 91320.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Chugai Pharmaceutical Co., Ltd., 1–9 Kyobashi 2-chome, Chuo-Ku, Tokyo, 104 Japan

Chugai U.S.A. Inc., 520 Madison Avenue, New York, New York 10022.

(c) Marcia H. Sundeen, Esq., and Cheri M. Taylor, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Room 401F and Room 401J, respectively, Washington, DC 20436, shall be the Commission investigative attorneys for the Commission investigative staff, party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) the rules (19 CFR 201.16(d) and 210.21(a)), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone 202–252–1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810.

By order of the Commission.

Keneth R. Mason,
Secretary.

Issued: February 3, 1988.

[FR Doc. 88–2841 Filed 2–9–88; 8:45 am]
BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree; Daniel Capuano et al.

In accordance with Departmental policy, 28 CFR 50.7, section 122(d)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9622(d)(2), and Section 7003(d) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6973(d), notice is hereby given that on January 27, 1988, a proposed consent decree in *United States* v. *Daniel Capuano, et al.*, Civil Action No. 88–0061 was lodged with the United States District Court for the District of Rhode Island. The proposed consent decree involves claims by the United States for recovery of clean-up costs incurred and to be incurred at the Picillo Farm Superfund Site in Coventry, Rhode Island as well as claims for injunctive relief. These claims were brought against defendants Daniel Capuano, Jack Capuano, Louise C. Capuano as administratrix of the estate of Anthony Capuano, Sanitary Landfill, Inc., United Sanitation, Inc., and A. Capuano Brothers pursuant to RCRA and CERCLA.

The proposed consent decree requries the defendants to pay $2 million to the state of Rhode Island and the United States Environmental Protection Agency for past costs expended at the Site. In return, the defendants are given a release from claims for past costs at the Site and for claims related to the remedial action. The defendants are also given a release for certain natural resource damage claims.

The Department of Justice will receive for a period of thirty (30) days from the date of publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Daniel Capuano, et al.*, D.J. Ref. No. 90–11–2–131.

The Proposed consent decreee may be examined at the Office of the United States' Attorney for the District of Rhode Island, 223 Federal Building and Courthouse, Kennedy Plaza, Providence, Rhode Island 02903 and at the Region I Office of the United States Environmental Protection Agency, John F. Kennedy Federal Building, Room 2203, Boston, Massachusetts 02203. Copies may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517,

Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.90 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General Land and Natural Resources Division.

[FR Doc. 88-2617 Filed 2-9-88; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Job Corps Center Assessment Advisory Committee; Meeting

A public meeting of the Job Corps Advisory Committee will be held on Wednesday, March 2, 1988, commencing at 9:00 a.m., at the Home Builders Institute, 15th and M Streets NW., Washington, DC.

The purpose of the meeting is to continue discussions which were initiated in the Committee's earlier meetings of recommendations to improve the Job Corps center assessment system and other aspects of the Job Corps program.

Individuals or organizations wishing to submit written statements pertaining to Job Corps center assessment should send 20 copies to Peter E. Rell, Director, Office of Job Corps, U.S. Department of Labor, Room N-4508, Washington, DC 20210, telephone (202) 535-0550. Papers will be accepted and included in the record of the meeting if received on or before February 29, 1988.

Roberts T. Jones,

Acting Assistant Secretary of Labor.

Signed at Washington, DC, this 5th day of February 1988.

[FR Doc. 88-2788 Filed 2-9-88; 8:45 am]

BILLING CODE 4510-20-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 88-15]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC), Meeting; Change of Date

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting change.

Federal Register Citation of Previous Announcement: 53 FR 2550, Notice Number 88-08, January 28, 1988.

Previously Announced Times and Dates of Meeting: February 11, 1988, 8:30 a.m. to 5 p.m.

Changes in the Meeting: Date changed to March 3, 1988, 8:30 a.m. to 5 p.m.

Contact Person for More Information: Mr. Jack Levine, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2835.

February 5, 1988.

Ann Bradley,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 88-2775 Filed 2-9-88; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

Open Hearing

AGENCY: National Commission To Prevent Infant Mortality.

ACTION: Notice of open hearing.

SUMMARY: In accordance with Pub. L. 99-660, notice is given of the third hearing of the National Commission to Prevent Infant Mortality. The purpose of this hearing is to discuss the role of the media in addressing public policy issues such as infant mortality.

DATE: February 29, 1988.

TIME: 9:30 a.m.-12:30 p.m.

ADDRESS: Harry Chandler Auditorium, Times Mirror Square, 202 West First Street, Los Angeles, California.

FOR FURTHER INFORMATION CONTACT: Kathy Allen, 202/472-1364.

Rae K. Grad,

Executive Director.

FR Doc. 88-2767 Filed 2-9-88; 8:45 am]

BILLING CODE 6820-SK-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Meeting of the Music Advisory Panel, Professional Training Section

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463)f, as amended, notice is hereby given that a meeting of the Music Advisory Panel (Professional Training Section) to the National Council on the Arts will be held on Februery 24, 1988 from 9:00 a.m.-8:00 p.m. and February 25, 1988 from 9:00 a.m.-6:00 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on February 25, 1988, from 1:00 p.m.-2:00 p.m. for policy and guidelines discussion.

The remaining sessions of this meeting on February 24 from 9:00 a.m.-6:00 p.m., and on February 25, 1988 from 9:00 a.m.-1:00 p.m., and February 25, 1988 from 2:00 p.m.-6:00 p.m. are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(b) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW, Washington DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

February 2, 1988.

Yvonne Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

FR Doc. 88-2764 Filed 2-9-88; 8:45 am]

BILLING CODE 7537-01-M

National Endowment on the Arts; Meeting of the National Arts Council; Ad Hoc Challenge III Committee

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Ad Hoc Challenge III Committee (Access) to the National Council on the Arts, will be held on February 29-March 1, 1988 from 9:00 a.m.-5:30 p.m. in room MO-7 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended,

including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6), and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

February 3, 1988.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 88–2762 Filed 2–9–88; 8:45 am]

BILLING CODE 7537–01–M

National Endowment on the Arts; Meeting of the National Arts Council, Ad Hoc Challenge III Committee

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Ad Hoc Challenge III Committee (Non-Federal Support) to the National Council on the Arts, will be held on February 26, 1988 from 9:00 a.m.–5:30 p.m. in room MO–7 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

February 3, 1988.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 88–2763 Filed 2–9–88; 8:45 am]

BILLING CODE 7537–01–M

National Endowment for the Arts; Meeting of the Theater Advisory Panel, Mimes Section

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Mimes Section) to the National Council on the Arts will be held on February 24, 1988, from 9:30 a.m.–6:00 p.m. in room MO–7 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on February 24, 1988, from 9:30 a.m.–10:00 a.m. for opening remarks.

The remaining sessions of this meeting on February 24 from 10:00 a.m.–6:00 p.m. are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9)(b) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

February 2, 1988.

Yvonne Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 88–2765 Filed 2–9–88; 8:45 am]

BILLING CODE 7537–01–M

National Endowment on the Arts; Meeting of the Visual Arts Advisory Panel, Forums Section

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Forums Section) to the National Council on the Arts, will be held on February 24–26, 1988 from 9:00 a.m.–6:00 p.m. in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

February 2, 1988.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 88–2766 Filed 2–9–88; 8:45 am]

BILLING CODE 7537–01–M

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this information collection must be submitted by March 11, 1988.

ADDRESSES: Send comments to Miss Elaina Norden, Office of Management and Budget, New Executive Office Building, 726 Jackson Place NW., Room 3002, Washington, DC 20503; (202–395–7316). In addition, copies of such comments may be sent to Mr. Murray Welsh, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue NW., Washington, DC 20506; (202–682–5401).

FOR FURTHER INFORMATION CONTACT: Mr. Murray Welsh, National Endowment for the Arts, Administrative Service Division, Room 203, 1100 Pennsylvania Avenue NW., Washington,

DC 20506; (202–682–5401) from whom copies of the documents are available.

SUPPLEMENTARY INFORMATION: The Endowment requests the reinstatement of a previously approved collection for which approval has expired. Each entry is issued by the Endowment and contains the following information: (1) The title of the form: (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

Title: Music Ensembles Application Guidelines FY 1989
Frequency of Collection: One-time
Respondents: State or local governments and non-profit institutions.
Use: Guideline instructions and applications elicit relevant information from state or local arts agencies and non-profit organizations that apply for funding under specific Program categories. This information is necessary for the accurate, fair and thorough consideration of competing proposals in the peer review process
Estimated Number of Repondents: 520
Estimated Hours for Repondents to Provide Information: 17,440.

Murray R. Welsh,

Director, Administrative Services Division, National Endowment for the Arts.

[FR Doc. 88–2820 Filed 2–9–88; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from January 19, 1988 through January 29, 1988. The last biweekly notice was published on January 27, 1988 (53 FR 2305).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration and Resource Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 11, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to

present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expira tion of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to *(Project Director)*: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-White Flint, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Carolina Power & Light Company, et al., Docket No. 50-324, Brunswick Steam Electric Plant, Unit 2, Brunswick County, North Carolina

Date of application for amendment: December 10, 1987

Description of amendment request: The proposed change to Brunswick Steam Electric Plant, Unit No. 2 (BSEP) Technical Specification Tables 3.3.5.2-1 and 4.3.5.2-1 is requested to address alternate shutdown capability requirements associated with 10 CFR Part 50, Appendix R. Level transmitter B21-LT-N026A currently provides indication on the remote shutdown panel, as well as on the control panel in the control room, and level transmitter B21-LT-N026B provides indication only on the control panel. Placement of associated cables is such that indication to both the remote shutdown panel and the control room would be lost if a Reactor Building "North" area fire occurred. The proposed modification would have level transmitter B21-LT-N026A providing indication to only the control board in the control room and B21-LT-N026B providing indication on the remote shutdown panel and, via the remote shutdown panel, on the control board. This change would permit the remote shutdown panel to maintain level indication from transmitter B21-LT-N026B in case of a "North" area fire, since it and its associated cable are located only in the "South" area of the Reactor Building.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether or not a no significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Carolina Power & Light Company (the Company) has reviewed this proposed license amendment request and determined that its adoption would involve no significant hazards consideration for the following reasons:

1. The instrumentation being rewired provides reactor water level indication as part of the plant monitoring instrumentation required for 10 CFR 50, Appendix R. It provides no direct protection against any of the accidents identified in Chapter 15 of the Updated Final Safety Analysis Report (UFSAR). By rewiring these instruments, remote indication of reactor water level will be provided on the remote shutdown panel in the event of a fire in the Unit 2 Reactor Building "North" area. Currently, the instrument providing indication to the remote shutdown panel as well as the cabling from the instrument providing indication to the control room would be destroyed in such a fire. Once the modification is complete, a reactor building "North" area fire will destroy only indication to the control room which would more than likely be uninhabitable. Indication to the remote shutdown panel would be maintained. Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. Instead, it provides additional capability in the event of a fire in the Unit 2 Reactor Building "North" area.

2. Rewiring of level transmitter loops B21-LT-N026A and B21-LT-N026B will allow the Company to safely shutdown the unit using the Alternate Safe Shutdown Procedures. The possibility of a new or different kind of accident from any accident previously evaluated will not be created because this instrumentation will not be performing any different function from its current function. This modification is being made to enhance the availability of the instrumentation in the event of a fire in the Reactor Building 'North" area. As the instrumentation is currently configured, level indication to both the control room and the remote shutdown panel from the two instruments would be lost in such a fire. The new configuration will preclude loss of

indication to the remote shutdown panel, thereby fulfilling the intended function of the instruments.

3. The proposed modification will ensure remote indication of reactor water level on the remote shutdown panel in the event of a fire in the Unit 2 Reactor Building "North" area. Currently, such a fire would destroy indicator B21-LT-N026A and the cables from indicator B21-LT-N026B and the remote shutdown panel, which are located in the Reactor Building "North" area. Indication to both the remote shutdown panel and the control room would be lost. The modification would preclude loss of indication to the remote shutdown panel. Thus, the proposed amendment does not involve a significant reduction in the margin of safety, rather it provides additional protection in the event of a fire in the the Reactor Building "North" area and thereby enhances the margin of safety.

Based on the above reasoning, the licensee has determined that the proposed changes involve no significant hazards consideration. The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposed to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: Elinor G. Adensam

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Units 1 and 2

Date of application for amendment: December 9, 1987

Description of amendment request: Technical Specification 4.15.1.E is being modified to incorporate the requirement that a Battery Service Test be performed every refueling on the 125 volt station batteries per IEEE 450-1987. This service test is designed to more directly verify a battery's ability to supply its emergency loads. This is in contrast to the determination of overall battery capacity that is provided by the results of a Performance Discharge Test (PDT).

A comparison of the proposed amendment is provided below. The Performance Discharge Test is proposed to be performed every 60 months, as opposed to the current refueling frequency. In its place, the Battery Service Test described above will be performed every refueling. These elements are consistent with those of NUREG-0452, Rev. 4, Standardized Technical Specifications (STS).

Battery Service Test Existing Technical Specifications: No requirement Proposed Amendment: Every refueling, unless PDT performed (1EEE 450-1987) STS: Every 18 months, unless PDT performed (1EEE 450-1980)

Performance Discharge Test Existing Technical Specifications: Every Refueling Proposed Amendment: Every 60 months, after degradation, or 85% of life. STS: Every 60 months, after degradation, or 85% of life.

Definition of Degradation Existing Technical Specifications: Not addressed. Proposed Amendment: 10% capacity loss or 90% performance. STS: 10% capacity loss or 90% performance

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequence of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee provided the following discussion regarding the above three criteria.

Criterion 1

Zion Station's 125 Volt Battery System is intended to provide a reliable source of DC electrical power following a postulated accident. Thus, the performance of the batteries is directly related to their ability to carry the required emergency loads.

The proposed amendment involves an upgrading of Zion Station's 125 Volt Battery Service and Performance Discharge testing program. Specifically, a proposed amendment involves the creation of a new requirement for the performance of a Battery Service Test during every refueling outage. This test is intended to more directly address the batteries ability to perform the safety function described above.

The net effect resulting from implementation of the proposed amendment will be an increased assurance of the availability of 125 Volt DC electrical power at Zion Station.

The upgrading of Zion Station's 125 Volt Battery Service and Performance Discharge testing program will not affect the operation of any of Zion's other safety systems. The initiating events involved with the previously evaluated accidents contained in Zion's FSAR have been reviewed. None of these initiating events will be affected by the upgrading of Zion's battery testing program.

Based upon the unaltered initiating event frequency and lack of safety system interaction discussed above, this proposed amendment will not increase either the probability or consequences of any accident previously evaluated.

Criterion 2

As discussed above, the upgrading of Zion Station's 125 Volt Battery Service and Discharge testing program will not affect the operation of any of Zion's safety systems. There will be no physical alterations at Zion Station required as a result of this proposed amendment. Thus, this proposed amendment can have no affect on the actual operation or on the structural integrity of Zion Station.

The upgrading of Zion's battery testing program will also have no affect on the generation of any external event such as earthquakes or tornadoes. Thus, there is no potential for any new system or plant interaction as a result of this proposed change.

Therefore, this change cannot create the possibility of a new or different kind of accident than any previously evaluated for Zion Station.

Criterion 3

As discussed above this proposed amendment will upgrade the 125 Volt Battery Service and Performance Discharge testing program at Zion Station. This upgraded testing program will provide additional assurance that Zion Station's 125 volt DC battery supply is capable of performing its intended safety function. This increased assurance provides additional confidence that the consequences of any previously postulated accident for Zion Station will remain well within the analyzed bounds.

Thus, the additional requirements contained in this proposed amendment increase the margin of safety at Zion Station.

The changes contained in this proposed amendment are intended to upgrade the requirements for battery testing at Zion Station. This is being accomplished through the inclusion of additional expanded requirements within Zion's Technical Specifications.

Thus, example (ii) is applicable in this instance. Example (ii) states:

(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement.

Therefore, since the application for amendment satisfies the criteria specified in 10 CFR 50.92 and is similar to examples for which no significant hazards consideration exists, Commonwealth Edison Company has made a determination that the application involves no significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis.

Accordingly, the Commission proposes to determine that the proposed changes to the Technical Specifications involve no significant hazards consideration.

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Attorney to licensee: Michael I. Miller, Esq., Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Director: Daniel R. Muller

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of amendment request: January 15, 1988

Description of amendment request: The proposed amendment would modify the Fermi-2 Technical Specifications to allow the low pressure coolant injection (LPCI) system cross-tie valve to be placed in the closed position during plant shutdown. Closure of the cross-tie valve is necessary to isolate a LPCI subsystem for maintenance.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has made a determination that the proposed amendment involves no significant hazards consideration based on the following considerations:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The change maintains the existing Emergency Core Cooling System (ECCS) equipment for cold shutdown conditions and allows alignment of the LPCI subsystem to inject to the reactor vessel via an alternative flow path while allowing closure of the LPCI cross-tie valve for subsystem maintenance. This alternative flow path is designed for full LPCI system flow during operating conditions when the path is selected by the LPCI loop selection logic. Thus, this change does not increase the probability or consequences of evaluated accidents.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change alters the alignment of LPCI equipment which results in the same required flow capabilities for ECCS equipment in the event of a loss-of-coolant accident in cold shutdown conditions. No new accident modes are created.

3. The proposed change does not involve a significant reduction in a margin of safety. The ECCS capability required in cold shutdown conditions remains unchanged resulting in an unchanged margin of safety.

Based on the above, the Commission's staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Monroe County Public Library System, 3700 South Custer Road, Monroe, Michigan 48161

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226

NRC Project Director: Martin J. Virgilio

Florida Power and Light Company, et al., Docket No. 50-389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of Amendment Request: November 27, 1987

Description of Amendment Request: The purpose of the amendment is to incorporate revised Pressure/Temperature (P/T) limits and the results of a recent Low Temperature Overpressure Protection (LTOP) analysis into the Technical Specifications for St. Lucie, Unit 2. The changes may be grouped as follows:

a. New P/T limit curves have been generated for six operating periods starting at 4 Effective Full Power Years (EFPY) out to 32 EFPY. The proposed amendment would replace the P/T limits in Limiting Condition for Operation (LCO) 3.4.9.1 with new P/T limits for the Reactor Coolant System (RCS) during heatup and criticality, and cooldown and inservice testing, as well as replace the maximum allowable cooldown rates.

b. A new LTOP analysis has been performed to ensure that the Reactor Coolant Pressure Boundary (RCPB) integrity will be maintained in the low temperature mode of operation in accordance with the new P/T limits during each of the operating periods. The proposed amendment would revise LCO 3.4.9.3 to require that unless the RCS is depressurized and vented by at least 3.85 square inches, at least one of the following overpressure protection systems must be Operable: (i) two power-operated relief valves (PORVs) with a lift setting of less than or equal to 470 psia and with their associated block valves open (these PORVs may only be used to satisfy LTOP when the RCS cold leg temperature is greater than the temperature for the applicable operating period listed in Table 3.4-4, Minimum Cold Leg Temperature For PORV Use For LTOP); (ii) two shutdown cooling relief valves (SDCRVs) with a lift setting of less than or equal to 350 psia; or (iii) one PORV with a lift setting of less than or equal to 470 psia and with its associated block valve open in conjunction with the use of one SDCRV with a lift setting of less than or equal to 350 psia (this combination may only be used to satisfy LTOP when the RCS cold leg temperature is greater than the temperature listed in Table 3.4-4). The proposed amendment would also revise the Applicability by requiring that LCO 3.4.9.3 be applicable in all of Modes 3, 4, 5 and 6, with the cold leg temperature during heatup and cooldown within the LOW Temperature RCS Overpressure Protection Range of Table 3.4-3 for Modes 3 and 4 only.

c. The proposed amendment would make an administrative change to redefine Low Temperature Overpressure Protection Range as that operating condition when (1) the cold leg temperature is less than or equal to that specified in Table 3.4-3 for the applicable operating period, and (2) the reactor coolant system is not vented to containment by an opening of at least 3.58 square inches.

d. The proposed amendment would revise the footnotes appended to LCO 3.4.1.3 and appended to LCO 3.4.1.4.1 to state that a reactor coolant pump shall not be started with two idle loops and one or more reactor coolant system cold leg temperatures less than or equal to that specified in Table 3.4-3 for the

applicable operating period unless the secondary water temperature of each steam generator is less than 40 degrees F above each of the reactor coolant system cold leg temperatures.

e. The proposed amendment would revise LCO 3.4.4 to make it applicable in Modes 1, 2, and 3 when operating above the LTOP range of Table 3.4-3 for the applicable operating period.

f. In addition, the proposed amendment would revise the appropriate Bases.

Basis for proposed no significant hazards consideration determination: As stated in 10 CFR 50.92, the Commission has provided standards for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability of a new or different kind of accident from any accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed changes in the plant Technical Specifications in accordance with the standards of 10 CFR 50.92(c) and has determined that operation of St. Lucie, Unit 2 in accordance with these changes would not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated. The P/T limit curves in the Technical Specifications are conservatively generated in accordance with the fracture toughness requirements of 10 CFR 50, Appendix G, as supplemented by ASME Code Section III, Appendix G. The RT_{NDT} values for the revised curves are based on Regulatory Guide 1.99, Rev. 2 (Draft) as discussed in the Combustion Engineering Report titled, "Methodology for Adjusted Reference Temperature Calculations." Analyses of reactor vessel material irradiation surveillance specimens are used to verify the validity of the fluence predictions and the P/T limit curves. Use of the revised curves in conjunction with the surveillance specimen program ensures that the RCPB will behave in a non-brittle manner and that the possibility of rapidly propagating fracture is minimized.

In conjunction with revising the P/T limit curves, an LTOP analysis has been performed to confirm that the setpoints for the PORVs and SDCRVs will provide the appropriate overpressure protection at the temperatures.

To ensure compliance with the P/T limit curves, overpressure protection is provided to keep the RCS pressure below the P/T limits for any given temperature following the initiation of an assumed pressure transient (energy-addition or mass-addition transient) while operating below the temperature at which the pressurizer safety valves provide overpressure protection during heatup and cooldown.

The revised P/T limit curves do not represent a significant change in the configuration or operation of the plant. Results of the LTOP analysis show that the limiting pressures for a given temperature are not exceeded for the assumed transients and that the reactor vessel and RCPB integrity are maintained. Thus, the proposed amendment does not involve an increase in either the probability or the consequences of accidents previously evaluated.

(2) create the possibility of a new or different kind of accident from any accident previously evaluated. The analysis performed has resulted in revised P/T limits based on the fracture toughness requirements of 10 CFR Part 50, Appendix G and the current LTOP system setpoints, which are based on the design basis energy-addition and mass-addition transients. Since there is no significant change in the configuration or operation of the facility due to the proposed amendment, use of the revised P/T limits and/or LTOP setpoints will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) involve a significant reduction in a margin of safety. The proposed change will not involve a significant reduction in a margin of safety because the fracture toughness requirements of 10 CFR Part 50, Appendix G are satisfied and conservative operating restrictions are applied for the purpose of LTOP.

The NRC staff agrees that the proposed changes to the Technical Specifications meet the criteria specified in 10 CFR 50.92(c) and, hence, proposes to determine that they involve no significant hazards considerations.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450.

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036.

NRC Project Director: Herbert N. Berkow

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-366, Edwin I. Hatch Nuclear Plant, Unit 2, Appling County Georgia

Date of amendment request: January 4, 1988

Description of amendment request: The amendment would modify the Technical Specifications to: (1) provide an exemption to the operability requirements for the High Pressure Coolant Injection (HPCI) system, the Reactor Core Isolation Cooling (RCIC) system, the Automatic Depressurization System (ADS), and the Safety/Relief Valve (S/RV) system, as well as primary containment integrity, during hydrostatic and system leak testing using non-nuclear heat when the reactor coolant temperature is greater than 212° F; (2) require secondary containment integrity and operability of the Standby Gas Treatment (SBGT) system during the performance of hydrostatic or system leak testing when the reactor coolant temperature is above 212° F; and (3) require that the Residual Heat Removal Service Water (RHRSW) system be operable when performing hydrostatic or system leak testing when the reactor coolant is above 212° F.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee's January 4, 1988 submittal provided the following evaluation of the three proposed changes with respect to these three standards:

Basis for Proposed Change 1:

This proposed change adds a footnote to Technical Specifications Table 1.2, modifying the Operational Conditions definitions of Hot Shutdown and Cold Shutdwon. This change effectively provides exemption to the operability requirements of the HPCI, RCIC, ADS, and S/RV Systems, as well as primary containment integrity, during non-nuclear hydrostatic and leak testing

when reactor coolant temperatures are above 212° F. Since the hydrostatic or leak test is performed water-solid, with all rods inserted into the reactor core, at low decay heat values, and at or near Cold Shutdown conditions, the stored energy in the reactor core will be very small. The high-pressure emergency core cooling and overpressurization protection functions mentioned above are incapable of functioning because of test conditions. Thus, the effective change to the operability requirements of the above mentioned systems is necessary and appropriate.

Under the conditions of the pressure testing, the amount of reactivity contained in any postulated steam leak will be very small and well within the capabilities of the secondary containment and the SBGT System. Therefore, primary containment integrity need not be maintained so that potential leakage points inside containment can be readily inspected during pressure tests.

Accordingly, the implementation of this change to the Technical Specifications would not involve a significant hazards consideration, because:

1. It does not involve a significant increase in the probability or consequences of an accident previously evaluated, because the hydrostatic and leak tests to which this change apply, occur with minimal primary system energy due to the fact that all control rods are inserted, and that low temperature and low fuel decay heat values are established. Under these test conditions, the Low Pressure Coolant Injection (LPCI) and Core Spray (CS) systems will function to ensure that a significant increase in the consequences or the probability of an accident will not occur. Emergency Core Cooling, overpressure protection, and primary containment functions are not required.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously analyzed, because no change in plant design or operation will occur as a result of this change. This change only provides for performance of ASME Code-required hydrostatic and leak testing with all control rods inserted.

3. This proposed change does not involve a significant reduction in a margin of safety, because plant operation is not affected and analyzed margins of safety are unchanged.

Basis for Proposed Change 2:

This proposed change will require secondary containment integrity and operability of the SBGT System during the performance of hydrostatic and leak testing when reactor coolant temperature is above 212° F. The consequences of testing above 212° F are potential steam, rather than water, leaks. Under the conditions of the pressure tests, the amount of radioactivity contained in postulated steam leaks will be very small and well within the capabilities of secondary containment and the SBGT System. The secondary containment is designed to handle the consequences of airborne radiation and steam leaks and will be operable (per this proposed change) for the performance of hydrostatic and leak testing. The consequences of a steam leak under pressure testing conditions, with secondary containment integrity, are conservatively bounded by the consequences of the main steam line break (outside of containment) accident described in the Plant Hatch Unit 2 FSAR, Subsection 15.1.40.

Accordingly, the implementation of this change to the Technical Specifications would not involve a significant hazards consideration, because:

1. It does not involve a significant increase in the probability or consequences of an accident previously evaluated, because the pressure tests occur with minimal primary system energy, and the secondary containment systems are capable of containing any potential leakage under the test conditions.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated, because the change does not represent a change to plant design or operation. The proposed change only requires the operability of existing plant systems under hydrostatic and leak testing conditions.

3. The proposed change does not involve a signficant reduction in the margin of safety, because plant operation is not affected and analyzed margins of safety are unchanged.

Basis for Proposed Change 3:

This proposed change requires the operability of the RHRSW System (with appropriate Action statements) during pressure tests when reactor coolant temperature is above 212° F.

Accordingly, the implementation of this change to the Technical Specifications would not involve a significant hazards consideration, because:

1. It does not involve a significant increase in the probability or consequences of an accident previously evaluated, because of the minimal primary system stored energy present during the pressure tests. The existing low-pressure cooling systems and the RHR System are more than adequate to keep the core cool in the event of a primary system leak under test conditions.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated, because this proposed change does not represent a change to plant design or operation. The change only requires the operability of an existing plant system under hydrostatic and leak testing conditions.

3. The proposed change does not involve a significant reduction in the margin of safety, because plant operation is not affected and anlyzed margins of safety are unchanged.

The staff has considered the proposed changes and agrees with the licensee's evaluation with respect to the three standards.

On this basis, the Commission has determined that the requested amendments meet the three standards and therefore has made a proposed determination that the amendment application does not involve a significant hazards consideration.

Local Public Document Room location: Appling County Library, 301 City Hall Drive, Baxley, Georgia

Attorney for licensee: Bruce W. Churchill, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washinton, DC 20037

NRC Project Director: Kahtan N. Jabbour, Acting

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: August 21, September 14, and December 17, 1987

Description of amendment request: The licensee provided the following description of the changes to the Technical Specifications. The proposed amendment of Figure 3.1.7(f) and Specification 3.1.7 of the Technical Specifications reflects the use of the Safer/Corecool computer code and methodology to establish the Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) limits for the General Electric fuel bundle, type P8DRB299.

Bases for proposed no significant hazards consideration determination: The Commission has provided standards (10 CFR 50.92(c)) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in

the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided, in part, the following analysis:

1. The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequence of an accident previously evaluated. The methods used to analyze the Loss of Coolant Accident response of the P8DRB299 fuel conform to 10 CFR Part 50, Appendix K, requirements. The methodology has been approved by the Nuclear Regulatory Commission. The peak cladding temperature was 5° F lower and the maximum oxidation fraction limit was 0.001 lower than that previously calculated for this fuel. Therefore, the proposed amendment will not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated. The P8DRB299 fuel will still be used. Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any previously evaluated.

3. The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant reduction in the margin of safety. An analysis of the Loss of Coolant Accident response of fuel bundle type P8DRB299 has been completed and shows that the results are in accordance with 10 CFR Part 50, Appendix K, and there is no significant reduction in the margin of safety.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Project Director: Robert A. Capra, Director

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: December 18, 1987

Description of amendment request: The following description of the Technical Specification changes was provided by the licensee:

The proposed revision to Specification 2.1.1 includes changes to the formula contained in Figure 2.1.1 for adjusting the flow biased scram and APRM rod block setpoints in those cases where the calculated total peaking factor exceeds the Maximum Total Peaking Factor for the fuel type. The maximum Total Peaking Factor is 2.90 for the General Electric fuel bundle type BD321B. This is the new Maximum Total Peaking Factor for the GE 8x8EB fuel to be added to the core during the 1988 Refueling and Maintenance Outage. In addition, the Maximum Total Peaking Factor for each type of GE fuel currently in the Nine Mile Point Unit 1 core has been identified. Finally, the factors in the formula (equation) contained on Figure 2.1.1 have been clarified.

The proposed changes to Specification 3.1.7 and the addition of Figure 3.1.7g reflect the addition of Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) limits for the General Electric fuel bundle type BD321B. These limits were calculated using the SAFER/CORECOOL/GESTR-LOCA computer codes and methodology. In addition, exposure dependent Minimum Critical Power Ratio (MCPR) limits have been eliminated and replaced with one MCPR which is applicable for the entire cycle; an increase in the limit is not required at end of cycle.

Finally, the Bases for Specifications 2.1.1, Fuel Cladding Integrity, and 3.1.7 and 4.1.7, Fuel Rods, have been updated to reflect the addition of General Electric BD321B fuel during the 1988 Refueling and Maintenance Outage. The description of the compensatory actions required when the calculated total peaking factor exceeds the maximum total peaking has been revised for clarity.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards (10 CFR 50.92(c)) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided, in part, the following analysis:

1. The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequence of an accident previously evaluated. The methods used to analyze the Loss of Coolant Accident response of the BD321B fuel conform to 10 CFR 50, Appendix K, requirements and follow the methodology previously approved by the Nuclear Regulatory Commission. The peak cladding temperature and maximum oxidation fraction are less than the maximum limits specified in 10 CFR 50.46. In addition, the limiting transients have been analyzed. The results of this analysis indicate that, if a minimum critical power ratio of 1.37 is maintained throughout the cycle, it will assure that the minimum critical power ratio will not go below 1.07 during the most limiting transient. The Technical Specification minimum critical power ratio of 1.40 throughout the entire fuel cycle is above the minimum required critical power ratio of 1.37. Based on the analyses, the proposed amendment will not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated. The new reload fuel has essentially the same mechanical properties as the fuel presently in use. Therefore, the proposed amendment will not create the possibility of a new or different accident from any previously evaluated.

3. The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety. Analyses of the Loss of Coolant Accident and limiting transient response of proposed fuel bundle type BD321B demonstrate the fuel conforms to 10 CFR Part 50, Appendix K, and there is no significant reduction in a margin of safety.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Project Director: Robert A. Capra, Director

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: October 1, 1981 as supplemented and amended on November 15, 1984, November 24, 1986, September 2, and November 18, 1987.

Description of amendment request: The proposed amendment would revise

the current Peach Bottom Atomic Power Station (PBAPS) Technical Specification (TS) 4.9.A.1(d) which specifies the sampling requirements for diesel generator fuel. The proposed amendment replaces the prior requirements to determine that fuel quality is within the limits of ASTM D975-68 with requirements to (a) check for and remove accumulated water from storage tanks, (b) sample, and test new fuel prior to addition to main storage tanks, (c) sample and test fuel oil from main storage tanks on a monthly basis, (d) drain and clean the main storage tanks at least once every ten years and (e) periodically check the main storage tank cathodic protection system. These requirements, as set forth in the updated submittal of September 2, 1987, are in response to the guidance contained in Regulatory Guide (RG) 1.137 and would be included on proposed TS pages 218, 218a, and 218b as TS 4.9.A.1.d, e, f, g, and h. The current TS 4.9.A.1.e would be renumbered 4.9.A.1.j and proposed page 218c would be added to accommodate the expansion of TS 4.9.A.1. The associated bases on TS page 224 would be modified accordingly. An additional Limiting Condition for Operation (LCO), 3.9.B.6., is proposed to specify the actions to be taken when the fuel oil in one of the main storage tanks does not meet the particulate limits of proposed TS 4.9.A.1.f. The LCO proposes an alternate to the RG 1.137 guidance that a diesel generator be declared inoperable if its associated main fuel tank is found to be contaminated by providing for alignment of the affected diesel generator to an uncontaminated tank subject to specified conditions. This LCO would be included on added TS page number 220a.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether significant hazards considerations exist as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin safety.

The licensee has evaluated the proposed amendment against the standards in 10 CFR 50.92 and has determined that upgrading the TS in response to the guidance in Regulatory Guide 1.137, "Fuel Oil Systems For Standby Diesel Generators" does not involve a significant hazards consideration because the revision does not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. The requested change will improve the fuel oil surveillance program to ensure that an adequate supply of quality fuel oil is maintained on-site in accordance with Regulatory Guide 1.137. Consequently, on-site emergency power reliability is improved, thereby reducing the probability and consequences of an accident.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change is limited to the testing and sampling of diesel fuel oil and fuel oil tanks. These tanks, performed in accordance with NRC guidance, will have no adverse effects on the station or any safety-related equipment, and consequently cannot initiate a new or different kind of accident.

3. Involve a significant reduction in a margin of safety. Maintaining a high quality fuel oil program will help to ensure that the diesel generators are available when they are required to respond to mitigate the consequences of an accident. Therefore, the improved diesel generator fuel oil surveillance program will have the effect of enhancing the safety margin.

Based on the above, the licensee has determined that the proposed amendment does not involve a significant hazards consideration. The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis.

The Commission has also provided examples of amendments that are not likely to involve a significant hazards considerstion [51 FR 7751]. Example (ii) in (51 FR 7751) is as follows: (ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement. The staff considers the proposed amendment to be similar to example (ii) because the proposed additional surveillance requirements are more stringent and the proposed LCO is an additional limitation in the Technical Specifications.

On these bases, Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126

Attorney for Licensee: Troy B. Conner, Jr., 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Portland General Electric Company et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: August 16, 1985, as revised December 19, 1986.

Description of amendment request: This amendment request would revise specific Trojan Technical Specifications (TS) to allow relief from Limiting Condition of Operation (LCO) 3.0.4. LCO 3.0.4 states: "Entry into an operational mode or other specified applicability condition shall not be made unless the conditions of the Limiting Condition for Operation are met without reliance on provisions contained in the action statements unless otherwise excepted. This provision shall not prevent passage through operation modes as required to comply with action statements."

The following TS sections would be revised to state that LCO 3.0.4 is not applicable: (1) 3.2.4 - Quadrant Power Tilt Ratio, (2) 3.3.3.5 - Remote Shutdown Instrumentation, (3) 3.9.7 - Crane Travel-Fuel Building, (4) 3.9.9 - Containment Ventilation Isolation System, and (5) 3.9.11 - Storage Pool Water Level.

Basis for proposed no significant hazards consideration determination: 10 CFR 50.92 states that a proposed amendment will involve no significant hazards consideration if the proposed amendment does not: (i) Involve a significant increase in the probability or consequences of an accident previously evaluated; (ii) Create the possibility of a new or different kind of accident previously evaluated; or (iii) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards of 10 CFR 50.92, and has determined the following:

TS 3.2.4, Quadrant Power Tilt Ratio - This change would not increase the probability or consequences of an accident previously evaluated because no change to the design, function, operating parameter, procedure, or setpoint of any plant system is proposed. This change would not create the possibility of a new or different kind of accident because the quadrant power tilt ratio is still restricted to the same

extent as is required in the present TS to ensure that departure from nucleate boiling (DNB) and linear heat generation limits are not exceeded. This change would not reduce a margin of safety since the LCO and actions to be taken when the LCO is not met remain unchanged.

TS 3.3.3.5, Remote Shutdown Instrumentation - This change would not increase the probability or consequences of an accident previously evaluated because no change to the design, function, operating parameter, procedure, or setpoint of any plant system is proposed. This change would not create the possibility of a new or different kind of accident because remote shutdown instrumentation is still required to be available to permit shutdown and maintain hot standby from outside the control room. This change would not reduce a margin of safety since the LCO and allowed outage time remain unchanged.

TS 3.9.7, Fuel Building Crane Travel - This change would not increase the probability or consequences of an accident previously evaluated because no change to the design, function, operating parameter, procedure, or setpoint of any plant system is proposed. This change would not create the possibility of a new or different kind of accident because control of loads over the spent fuel pool is irrelevant to plant operation and entry into operational modes. This change would not reduce a margin of safety since the LCO and action to be taken when the LCO is not met remain unchanged.

TS 3.9.9, Containment Ventilation Isolation (CVI) System - This change would not increase the probability or consequences of an accident previously evaluated because no change to the design, function, operating parameter, procedure or setpoint of any plant system is proposed. This change would not create the possibility of a new or different kind of accident because containment ventilation penetrations will still be automatically isolated by the CVI System. This change would not reduce a margin of safety since the LCO and the action to be taken when the LCO is not met remain unchanged.

TS 3.9.11, Storage Pool Water Level - This change would not increase the probability or consequences of an accident previously evaluated because no change to the design, function, operating parameter, procedure, or setpoint of any plant system is proposed. This change would not create the possibility of a new or different kind of accident because the minimum water depth in the pool assumed in the accident analysis is maintained. This change would not reduce a margin of safety since the LCO and the action to be taken when the LCO is not met remain unchanged.

The staff has reviewed the licensee's no significant hazards analysis and concurs with their conclusions. As such, the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

Local Public Document Room location: Portland State University Library, 731 S. W. Harrison Street, Portland Oregon 97207

Attorney for licensee: J. W. Durham, Esq., Portland General Electric Company, 121 S. W. Salmon Street, Portland, Oregon 97204

NRC Project Director: George W. Knighton

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: December 21, 1987

Description of amendment request: The proposed amendment would revise the Technical Specifications to amend Table 3.13-1 to reflect changes to safety related snubbers.

Specifically, Table 3.13-1 has been revised to reflect the following modifications:

1. Pressurizer safety and relief valves discharge piping, Line 70; - addition of snubbers RC-R-70-201-H, 202, 206, 207, 208, and - deletion of snubbers RC-R-70-6B-H, 9, 12A and 12B (Sheet 3 of 8).

2. Steam generator blowdown system upgrade, Lines 45 and 46; - deletion of snubber BD-R-45-8-H, and - addition of snubber BD-R-46-15-H (Sheet 2 of 8).

In addition to the above changes, all the multiple support identifiers contained in Table 3.13-1 (Lines 12C, 480 and 1134) were deleted as not being required for the purpose of this table (Sheets 2, 5 and 6 of 8).

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee made the following analysis of these changes:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response:

The probability of a previously analyzed accident is not increased since the proposed amendment reflects only the installation and removal of certain snubbers in the pressurizer discharge piping or steam generator blowdown system without changing any plant design basis.

The consequences associated with FSAR analyzed transients are, in fact, reduced since the pressurizer discharge piping modification, which was based on EPRI/Westinghouse generic conditions bounding the IP-3 design, optimized and enhanced the PRZR S/RVs support piping configuration. Also, the consequences of applicable transients were minimized by eliminating the existing inlet piping water loop seal.

Similarly, the steam generator blowdown system modification does not affect the probability of any previously evaluated accident. The consequences of these accidents are minimized since this modification enhanced the previous design.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response:

The proposed amendment reflects the installation and removal of certain pressurizer safety and relief valve discharge piping snubbers.

The modification did not create the possibility of a new or different kind of accident from any accident previously evaluated since no additional initiating event is being developed. As stated above, this modification only upgraded the adequacy of the PRZR S/RVs discharge piping. Accordingly, the transient mitigating function of the PRZR S/RVs is enhanced.

In addition, no new accidents are created as a result of upgrading the steam generator blowdown system.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response:

The proposed amendment does not involve a significant reduction in a margin of safety. As stated in the response to Question 1 above, the consequences of FSAR transients were reduced and accordingly the margin of safety was improved. The current PRZR S/RVs discharge piping and steam generator blowdown system design, as modified, upgraded those that were developed originally.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019

NRC Project Director: Robert A. Capra, Director

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: November 10, 1987 (TS 87-42)

Description of amendment requests: The Tennessee Valley Authority (TVA) has proposed a change to the Sequoyah Nuclear Plant, Units 1 and 2 Technical Specifications (TS) to add three active motor-operated valves (MOV's) to TS Table 3.8-2 that were previously omitted. These additions result from TVA's review and comparison of the current TS Table 3.8-2, the American Society of Mechanical Engineers Section XI active valve listing for Sequoyah, and TVA's engineering Change Notice 6883.

Basis for proposed no significant hazards consideration determination: The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

Operation of SQN in accordance with the proposed amendment will not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated.

The addition of the MOVs to the technical specification table ensures that their associated TOL devices are properly tested pursuant to SR 4.8.3.2. This ensures that the MOVs will not spuriously trip because of TOL during an accident-type sequence.

(2) create the possibility of a new or different kind of accident from any previously analyzed.

The testing of the TOL devices helps ensure that the MOVs will perform their intended function. The function of the MOVs is not altered in any manner.

(3) involve a significant reduction in a margin of safety.

The testing of the TOL devices helps ensure that the MOVs will perform their intended functions. By ensuring that the MOVs will not spuriously trip because of TOL, the margin of safety is increased.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: Gary G. Zech

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: November 17, 1987 (TS 87-40)

Description of amendment requests: The Tennessee Valley Authority (TVA) has proposed to modify the Sequoyah Nuclear Plant, Units 1 and 2, Technical Specifications regarding the Auxiliary Feedwater Water (AFW) suction, pressure-low trip setpoint and corresponding the allowable value of Table 3.3-4 Item 6.g for the AFW turbine-driven (TD) pump. These changes were proposed as a result of TVA's identification of inconsistency between the current TS values and the analytically calculated safety limits.

Basis for proposed no significant hazards consideration determination: The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

Operation of SQN in accordance with the proposed amendment will not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated. The AFW system supplies, in the event of a loss of the main feedwater supply, sufficient feedwater to the steam generators to remove primary system stored and residual core energy. It may also be required for cooldown after a small break loss of coolant accident (LOCA), maintaining a water head in the steam generators following a LOCA, or a flood above plant grade.

The system is designed to start automatically in the event of a loss of offsite electrical power, a feedwater line break, safety injection, or a trip of both main feedwater pumps, any of which will result in, may be coincident with, or may be caused by a reactor trip. It will supply sufficient feedwater to prevent the relief of primary coolant through the pressurizer safety valves and the uncovering of the core. It has adequate capacity to maintain the reactor at hot standby and then cool the reactor coolant system to the temperature that the residual heat removal system may be placed in operation.

The preferred sources of water for all AFW pumps are the two 385,000 gallon nonseismic CSTs. As an unlimited backup (seismic category I) water supply, a separate trained ERCW system header feeds each electric pump. The TD pump can receive backup (seismic category I) water from either train A or B ERCW header. The ERCW supply is automatically (or remote-manually) initiated on a two-out-of-three low-pressure signal in the condensate suction line.

The proposed change increases the low pressure TD pump setpoint and corresponding allowable value. The change to the trip setpoint will make the technical specifications reflect the actual setpoint presently used for the TD pumps. The change to the allowable value is based on conservative calculations that determine the analytical safety limits for suction swapover. The proposed change is in the conservative direction and will ensure that adequate NPSH is maintained during swapover from the CST supply to the ERCW supply. Thus, maintaining AFW pump suction will ensure AFW is available to perform its intended safety function.

(2) create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes are made so that the technical specifications reflect the actual setpoints used at SQN, and so that the allowable values are indicative of the calculated analytical safety limits for the plant. The possibility of an inadvertent swapover is not increased, since the allowable values are reflective of suction pressures that require that ERCW flow be established to the AFW pumps. The function of pump suction swapover is not altered in any manner from the currently used at the plant.

(3) involve a significant reduction in a margin of safety. The proposed change is supported by conservative calculations that ensure that pump suction is not lost when suction swapover is initiated at the proposed values. Also, the swapover will not be inadvertently initiated. The proposed change is in the conservative direction, thus increasing the margin of a safety. As such, AFW flow will not be interrupted and will remain available as a heat removal source.

TVA has evaluated the proposed technical specification change and determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c).

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the Commission proposes to determine that this change does not involve significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902. El11*NRC Assistant Director:* Gary G. Zech

The Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: December 16, 1986, and September 11, 1987

Description of amendment request: In accordance with the requirements of 10 CFR 73.55, the licensees submitted an amendment to the Physical Security Plan for the Perry Nuclear Power Plant to reflect recent changes to that regulation. The proposed amendment would modify paragraph 2.E of Facility Operating License No. NPF-58 to require compliance with the revised Plan.

Basis for proposed no significant hazards consideration determination: On August 4, 1986 (51 FR 27817 and 27822), the Nuclear Regulatory Commission amended Part 73 of its regulations, "Physical Protection of Plants and Materials," to clarify plant security requirements to afford an increased assurance of plant safety. The amended regulations required that each nuclear power reactor licensee submit proposed amendments to its security plan to implement the revised provisions of 10 CFR 73.55. The licensee submitted its revised plan on December 16, 1986, and September 11, 1987, to satisfy the requirements of the amended regulations. The Commission proposes to amend the license to reference the revised plan.

In the Supplementary Materials accompanying the amended regulations, the Commission indicated that it was amending its regulations "to provide a more safety conscious safeguards system while maintaining the current levels of protection" and that the "Commission believes that the clarification and refinement of requirements as reflected in these amendments is appropriate because they afford an increased assurance of plant safety,"

The Commission has provided guidance concerning the application of the criteria for determining whether a significant hazards consideration exists by providing certain examples of actions involving no significant hazards considerations and examples of actions involving significant hazards considerations (51 FR 7750). One of these examples of actions involving no significant hazards considerations is example (vii) "a change to conform a license to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations." The changes in this case fall within the scope of the example. For the foregoing reasons, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Martin J. Virgilio.

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: September 29, 1987

Description of amendment request: The proposed amendment would revise the provisions in the Davis-Besse Nuclear Power Station, Unit No. 1, Technical Specifications (TSs) relating to remote shutdown monitoring instrumentation as specified in TS Section 3.3.3.5, Table 3.3-9. Specifically, the proposed amendment would change the upper measurement range of Item 3 of Table 3.3-9, Reactor Coolant System Pressure to 3000 psig from 2500 psig. The proposed change would be in accordance with the guidance of Regulatory Guide 1.97.

Basis for proposed no significant hazards consideration determination: The Commission has made a proposed determination that the amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.59, this means that the operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed change against the above standards as required by 10 CFR 50.91(a). The Commission has reviewed the licensee's evaluation and agrees with it. The licensee concluded that:

A. The change does not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)) because the plant will continue to be operated, tested, and maintained as before. Further, installation and operation of the additional instrumentation will be similar to existing instruments, although there will be some loss of precision due to the increased span of the instrumentation.

B. The change does not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because the instruments are similar to those now currently used for this purpose. Therefore, all accident scenarios attributable to this type of instrument have already been considered.

C. The change does not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3)) because the plant will be operated, tested, and maintained as before. Compensation for the loss of instrument precision will be through appropriate changes to procedure values requiring operator decision or action, thus preserving margins of safety.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Kenneth E. Perkins.

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: October 8, 1987

Description of amendment request: The proposed amendment would revise the Technical Specifications covering the low frequency trip setpoints for the reactor coolant pump motor breakers and make a minor editorial change.

Basis for proposed no significant hazards consideration determination:

The Commission has provided guidance concerning the application of the standards for determining whether a significant hazard exists by providing certain examples (48 FR 14870). One of the examples of action involving no significant hazards considerations is example (vi), "a change which either may result in some increase to the probability or consequences of a previously analyzed accident, or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria

with respect to the system or component specified in the Standard Review Plan". The requested reactor coolant pump motor breaker change was covered by this example.

The licensee has provided the results of a reanalysis of the loss of flow transient, performed by Westinghouse, in support of its proposed amendment application. The analysis methodology for this transient is consistent with the Kewaunee Nuclear Power Plant's Updated Safety Analysis Report.

While the Departure from Nucleate Boiling Ratio (DNBR) margin will be reduced at the lower trip frequency, the results of the analysis indicate that the DNBR remains well within the accepted limits. Therefore, the staff proposes to determine that the proposed amendment would involve no significant hazards considerations.

In addition, the editorial change is covered by item (i), "A purely administrative change to the technical specifications, correction of an error, or a change in nomenclature."

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: David Baker, Esq. Foley and Lardner, P. O. Box 2193 Orlando, Florida 31082.

NRC Project Director: Kenneth E. Perkins.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Arizona Public Service Company, et al, Docket No. STN 50-530 Palo Verde Nuclear Generating Station, Unit 3, Maricopa County, Arizona

Date of application for amendment: January 23, 1987 as supplemented by letters dated April 23, June 8, July 17, October 1, and November 10, 1987.

Brief description of amendment: The amendment revises the technical specifications by (1) changing Specification 3.1.1.1 and 3.1.1.2 and related Tables 2.2-1 and 3.3-1 concerning shutdown margin requirements for the various modes of operation; (2) revising Specification 3.1.2.3 and related tables in Specification 3.1.2.7 concerning the number of charging pumps in operation while in Mode 5; (3) adding a new Special Test Exception to allow operability testing of the control element drive mechanism system during pre-startup testing without the need for alternating between specifications, and (4) revising several other portions of the technical specifications representing related administrative changes.

Date of issuance: Janauary 26, 1988

Effective date: January 26, 1988

Amendment No.: 2

Facility Operating License No. NPF-74: Amendments change the Technical Specifications.

Date of initial notice in **Federal Register:** August 12, 1987 (52 FR 29910). The requested amendments for Palo Verde, Units 1 and 2 have been issued previously pursuant to the licensees' letter dated October 1, 1987. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 26, 1988

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004

Boston Edison Company Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: August 9, 1984 as supplemented by letters dated August 9, 1985, July 24, 1987, December 7, 1987 and January 14, 1988.

Brief Description of amendment: This amendment revised the Technical Specification to clarify the requirements concerning operability in Sections 3.7.B.1 and 4.7.B.1 for the Standby Gas Treatment System and Sections 3.7.B.2 and 4.7.B.2 for the Control Room High Efficiency Air Filtration System, and corrects an error of omission in Section 4.7.B.1.a(3).

Date of issuance: January 20, 1988

Effective date: January 20, 1988

Amendment No.: 112

Facility Operating License No. DPR-35: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 23, 1985 (50 FR 43021). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 20, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Boston Edison Company Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: June 4, 1987 as supplemented by letters dated August 13, September 21, and December 8, 1987.

Brief description of amendment: This amendment concerns technical specifications regarding primary containment isolation valves. The changes include (1) revising the definition of frequently used terms, (2) modifying Table 3.2-B to add instrumentation for the two new High Pressure Coolant Injection System vacuum breakers, (3) revising containment isolation valve listing in Table 3.7-1, and (4) making editorial changes and adding clarifications to facilitate the interpretation of the Technical Specifications.

Date of issuance: January 21, 1988

Effective date: 30 days from date of issuance

Amendment No.: 113

Facility Operating License No. DPR-35: Amendment revised the Technical Specifications.

Date of notice in **Federal Register:** August 26, 1987 (52 FR 32192). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 21, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Carolina Power & Light Company, et al., Docket No. 50-324, Brunswick Steam Electric Plant, Unit 2, Brunswick County, North Carolina

Date of application for amendment: August 17, 1987

Brief description of amendment: The amendment changes the Technical Specifications to revise the Standby Liquid Control System pump relief valve setpoint and sodium pentaborate concentration curve to satisfy the anticipated transient without scram (ATWS) rule requirements specified in 10 CFR 50.62.

Date of issuance: January 28, 1988

Effective date: January 28, 1988

Amendment No.: 143

Facility Operating License No. DPR-62: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 16, 1987 (52 FR 47777) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 28, 1988

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: June 12, 1987, supplemented December 30, 1987

Brief description of amendment: The amendment replaces the organizational charts in the Technical Specifications with more general organizational requirements.

Date of issuance: January 27, 1988

Effective date: January 27, 1988

Amendment No. 3

Facility Operating License No. NPF-63. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 26, 1987 (52 FR 32195) The December 30, 1987 letter provided clarifying information that did not change the initial determination of no significant hazards consideration as published in the **Federal Register.** The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 27, 1988.

No significant hazards consideration comments received: No

Attorney for the Licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602

Local Public Document Room location: Richard B. Harrison Library, 1313 New Bern Avenue, Raleigh, North Carolina 27610

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station Unit Nos. 1 and 2, Ogle County, Illinois; Docket Nos. STN 50-456 and STN 457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of Application for amendments: September 29, 1987

Brief description of amendments: These amendments revise the Technical Specifications to extend the allowable outage times from 72 hours to 7 days for several systems and subsystems.

Date of issuance: January 21, 1988

Effective date: January 21, 1988

Amendment Nos.: 14 for Byron, 4 for Braidwood

Facility Operating License Nos. NPF-37, NPF-66, NPF-72, and NPF-75. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 4, 1987 (52 FR 42358) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 21, 1988

No significant hazards consideration comments received: No

Local Public Document Room location: For Byron Station the Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61101; for Braidwood Station the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Commonwealth Edison Company, Docket Nos. 50-237 and 50-249, Dresden Nuclear Power Station, Unit Nos. 2 and 3, Grundy County Illinois

Date of application for amendment: August 21, 1986

Brief description of amendment: These amendments change the Technical Specifications to make Corporate and Station organizational changes. In addition 10 CFR 50.73 is referenced, section 6.1.G is revised and Unit 1 is removed from Table 6.6.1.

Date of issuance: January 22, 1988

Effective date: January 22, 1988

Amendment No.: 92 and 97

Provisional Operating License No. DPR-19 and Facility Operating License No. DPR-25. The amendments revise the Technical Specifications.

Date of initial notice in **Federal Register:** May 20, 1987 (52 FR 18974). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 22, 1988

No significant hazards consideration comments received: No

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: November 24, 1986

Brief description of amendment: The currently licensed term for the Haddam Neck Plant is 40 years commencing with the issuance of the construction permit (May 26, 1984). Accounting for the time that was required for plant construction, this represents an effective operating license term of 37 years for the Haddam Neck Plant. This license amendment changes the expiration date for the Haddam Neck Plant Facility Operating License No. DPR-61 from May 26, 2004 to June 29, 2007, which is forty years from its June 30, 1967 issuance.

Date of Issuance: January 19, 1988

Effective date: January 19, 1988

Amendment No.: 98

Facility Operating License No. DPR-61. Amendment revised the expiration date of the license.

Date of initial notice in **Federal Register:** December 30, 1986 (51 FR 47076). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 19, 1988

No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: September 8, 1987

Brief description of amendments: The amendments modified Technical

Specification 5.3.1 "Fuel Assemblies" by increasing the maximum allowable fuel enrichment to 4.0 weight percent (w/o) U-235 from the previous value of 3.5 w/o U-235.

Date of issuance: January 19, 1988
Effective date: January 19, 1988
Amendment Nos.: 38 and 30
Facility Operating License Nos. NPF-35 and NPF-52. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** December 16, 1987 (52 FR 47783) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 19, 1988
No significant hazards consideration comments received: No
Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of application of amendments: May 13, 1987 (87-L-209 and 87-L-210), as supplemented October 21, 1987
Brief description of amendments: The amendments changed the limiting conditions for operation, action statements, and surveillance requirements for the hydrogen analyzers such that the technical specifications are identical for each unit.
Date of Issuance: January 19, 1988
Effective Date: January 19, 1988
Amendment Nos.: 89 and 27
Facility Operating License Nos. DPR-67 and NPF-16: Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** August 12, 1987 (52 FR 29916) Additional information was submitted by letter dated October 21, 1987. The additional information did not alter the staff's proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 19, 1988.
No significant hazards consideration comments received: No.
Local Public Document Room location: Indian River Junior College Library, 3209 Virgina Avenue, Ft. Pierce, Florida 33450.

General Electric Company, Docket No. 50-183, ESADA Vallecitos Experimental Superheat Reactor (EVESR), Alameda County, California

Date of application for amendment: August 6, 1987
Brief description of amendment: This amendment revises the Technical Specification to authorize a general radiation survey of the facility on an annual basis instead of a semi-annual basis.
Date of issuance: January 14, 1988
Effective Date: January 14, 1988
Amendment No.: 4
Facility License No. DR-10. This amendment revises the Technical Specifications.
Date of initial notice in **Federal Register:** October 21, 1987 (52 FR 39298) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 14, 1988.
No significant hazards consideration comments received: No.
Local Public Document Room location: N/A

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: October 21, 1987
Brief description of amendments: The amendments modified the Technical Specifications related to fuel thermal limits and refueling operations.
Date of issuance: Janaury 22, 1988
Effective date: January 22, 1988
Amendment Nos.: 151 and 89
Facility Operating License Nos. DPR-57 and NPF-5. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** December 16, 1987 (52 FR 47783) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 22, 1988
No significant hazards consideration comments received: No
Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: July 29, 1987 as supplemented by letter dated November 5, 1987.
Brief description of amendment: The amendment revised the Technical Specifications by revising the upper limit on containment internal pressure and changing the pressure measurement units to inches water gauge.
Date of issuance: January 19, 1988
Effective date: January 19, 1988
Amendment No.: 27
Facility Operating License No. NPF-38. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** December 16, 1987 (52 FR 47788). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 19, 1988.
No significant hazards consideration comments received: No.
Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: June 10, 1986
Brief description of amendments: The amendments clarify the types of radioactivity analyses and lower limits of detection for gaseous effluents from the waste gas decay tanks, the plant vent, containment purge, and the steam generator blowdown tank vent.
Date of Issuance: December 28, 1987
Effective date: December 28, 1987
Amendment Nos: 26 (Unit 1) and 25 (Unit 2)
Facility Operating Licenses Nos. DPR-80 and DPR-82: Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** April 22, 1987 (52 FR 13342) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 28, 1987.
No significant hazards consideration comments received: No
Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Public Service Company of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado

Date of amendment request: April 23, 1987 (P-87100)
Brief description of amendment: Revises the Technical Specifications concerning the source of test signals for surveillance and calibration requirements of the Plant Protective System.
Date of issuance: January 22, 1988
Effective date: January 22, 1988
Amendment No.: 58
Facility Operating License No. DPR-34. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 31, 1987 (52 FR 39305) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 22, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Greeley Public Library, City Complex Buidling, Greeley, Colorado

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: November 9, 1987

Brief description of amendment: This amendment changed the requirements of TS 3/4.9.2 with respect to minimum source range monitor neutron count rate and deleted TS 3/4.10.7 which was applicable only during the initial core loading.

Date of issuance: January 19, 1988

Effective date: February 1, 1988

Amendment No.: 14

Facility Operating License No. NPF-57. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 16, 1987 (52 FR 47790) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 19, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Tennessee Valley Authority, Dockets Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendments: May 29, 1987 (TS 232)

Brief description of amendments: The amendments clarify the trip level setting for the standby gas treatment system relative humidity heater. The previous requirement of "less than or equal to 2000 cfm" has been changed to "greater than or equal to 2000 cfm and less than or equal to 4000 cfm."

Date of issuance: January 19, 1988

Effective date: January 19, 1988, and shall be implemented within 60 days

Amendments Nos.: 140, 136, 111

Facility Operating Licenses Nos. DPR-33, DPR-52 and DPR-68: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 16, 1987 (52 FR 47793) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 19, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: January 24, 1986 as supplemented by letters dated May 13, 1986, June 9, 1986, January 16, 1987, and February 2, 1987.

Brief description of amendment: The amendment revises the Technical Specifications (TS) with respect to radiological effluent monitoring equipment operability, sample point locations, and definitions.

Date of issuance: January 20, 1988

Effective date: January 20, 1988

Amendment No.: 103

Facility Operating License No. DPR-28: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 13, 1986 (51 FR 29014) and renoticed on June 3, 1987 (52 FR 20805). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 20, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[Doc. 88-2696 Filed 2-9-88; 8:45 am]

BILLING CODE 7590-01-D

[Docket No. 50-366]

Georgia Power Co., Oglethorpe Power Corp., Municipal Electric Authority of Georgia City of Dalton, GA, Edwin I. Hatch Nuclear Plant, Unit 2; Exemption

I

Georgia Power Company, et al. (the licensee) is the holder of Facility Operating License No. NPF-5, which authorizes full power operation of the Edwin I. Hatch Nuclear Plant, Unit 2. The license provides, among other things, that it is subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility incorporates a boiling water reactor at the licensee's site located in Appling County, Georgia.

II

By letter dated January 6, 1988, the licensee requested an exemption from the requirements of 10 CFR 50.62(c)(4), which establishes the minimum injection flow rate and the boron concentration for the standby liquid control system (SLCS).

Specifically, 10 CFR 50.62(c)(4) requires that each boiling water reactor must have a SLCS with minimum flow capacity and boron content equivalent in control capacity to 86 gallons per minute (GPM) of 13 weight percent (w/o) sodium pentaborate solution. The licensee requested an exemption from this requirement to permit use of a minimum flow rate of 41.2 GPM and an available sodium pentaborate concentration ranging from 6.2% to 13 w/o depending on the volume in the existing SLCS storage tank. The Boron-10 content of the boron in the dissolved sodium pentaborate solution would be enriched to 60 atomic percent.

The requirement established by the regulation was intended to provide for prompt injection of negative reactivity into a boiling water reactor pressure vessel in the event of an anticipated transient without scram (ATWS) event. The reactor vessel size used to establish the required flow rate of 86 GPM and the sodium pentaborate concentration of 13 w/o was the large 251-inch diameter vessel used in the BWR/5 and BWR/6 designs. The Hatch Unit 2 reactor has a much smaller 218-inch diameter vessel. For the Hatch Unit 2 reactor, a lesser flow rate, following the formula proposed by the licensee, will provide a negative reactivity injection in an ATWS event equivalent to that called for by the regulation for the larger 251-inch diameter boiling water reactor vessel. See Generic Letter 85-03, "Clarification of Equivalent Control Capacity for Standby Liquid Control Systems," January 28, 1985.

III

In the case, the flow rate-boron 10 concentration relationship established by the licensee's formula will provide control capacity for the smaller Hatch Unit 2 reactor pressure vessel equivalent to that called for by the rule based on larger reactor pressure vessels. Requiring Hatch Unit 2 to have the flow rate-boron 10 concentration capacity specified by the rule is not necessary to provide adequate negative reactivity in the event of an ATWs at Hatch Unit 2. Thus, the Commission's staff finds that

there are special circumstances in this case which satisfy the standards of 10 CFR 50.12(a)(2)(ii). As set forth in the Safety Evaluation of Amendment No. 90, issued concurrently with this Exemption, the staff has determined that operation under the revised Technical Specifications governing flow rate and boron-10 concentration will not endanger public health and safety and will not be inimical to the common defense and security.

IV

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12, an exemption is authorized by law and will not present an undue risk to the public health and safety, and is consistent with the common defense and security, and hereby grants the following exemption with respect to the requirements of paragraph (c)(4) of 10 CFR 50.62.

The licensee may operate the facility with flow rate and boron concentration requirements as set forth in sections 3.1.5. and 4.1.5 of the Hatch Unit 2 facility Technical Specification.

Pursuant to 10 CFR 51.32, the Commission has determined that granting this Exemption will have no significant impact on the environment (53 FR 2659).

This Exemption is effective upon issuance.

Dated at Rockville, Maryland, this 3rd day of February 1988:

For The Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects I/II.

[FR Doc. 88-2798 Filed 2-9-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-461]

Illinois Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-62 issued to Illinois Power Company (the licensee), for operation of Clinton Power Station, Unit 1 located in DeWitt County, Illinois.

This amendment consists of a request for a one-time schedular exception of the Technical Specification surveillance requirements for the leak-rate testing of eight Containment Isolation Valves (CIVs) (1E12-F023, 1E51-F034, 1E51-F035, 1E51-F390, 1E51-F391, 1E12-F061, IE12-F062, 1E51-F013) and three Reactor Coolant System Pressure Isolation Valves (PIVs) (1E12-F023, 1E51-F013, 1E51-F066) of Specifications 4.5.1.2.d and 4.4.3.2.2, respectively. The existing Technical Specifications require the CIVs and the PIVs to be leak tested on a 24-month and a 18-month interval, respectively, corresponding with the plant being in a COLD SHUTDOWN condition. Based on the previous test completion dates, the eight CIVs currently require testing by October 21, 1988. Two of the PIVs currently require testing by May 17, 1988, and the third PIV by October 4, 1988.

Performing the required leak-rate tests on these valves will require the removal of the drywell head and the disassembly of the reactor head spray piping. Reassembly of the reactor head spray piping will require that a reactor coolant system boundary leakage test be performed in accordance with the ASME code. The licensee estimates that these tasks would extend the Spring 1988 maintenance outage by about one week and cause additional personnel exposure of approximately one to two Man-Rem. Thus they have proposed that tests be performed prior to startup from the first refueling outage, which is scheduled for the spring of 1989. This would bring the leak test schedule for these valves into alignment with the fuel cycle.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By March 11, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.174, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitation in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the

following message addressed to Daniel R. Muller: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel—Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Sheldon Zable, Esq., of Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petition and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factor specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated October 30, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Dated at Bethesda, Maryland this 4th day of February 1988.

For The Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III–2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88–2799 Filed 2–9–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–354]

Public Service Electric & Gas Co., Atlantic City Electric Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–57 issued to Public Service Electric & Gas Company and Atlantic City Electric Company (the licensees) for operation of the Hope Creek Generating Station, located in Salem County, New Jersey.

The proposed amendment would:

(1) Administratively divide the current Technical Specification (TS) 3.6.5.3, which is applicable to both the Filtration, Recirculation and Ventilation System (FRVS) recirculation units and the FRVS ventilation units into separate subsections, 3.5.6.3.1 for the ventilation units and 3.5.6.3.2 for the recirculation units.

(2) Relax the current TS 4.6.5.3.c requirement that the FRVS recirculation and ventilation units be demonstrated to be operable a) after any structural maintenance on the HEPA filter or charcoal adsorber housings or b) following painting, fire or chemical release in any ventilation zone communicating with the subsystem. The revision would require that the units be demonstrated to be operable only if it is determined following the activities described in (a) and (b) above the HEPA filters or charcoal adsorbent could have been adversely affected by any resulting fumes, chemicals, or foreign materials. This determination would consider the type, quantity, length of contact time, known effects and previous accumulation history for all contaminants that could reduce the system efficiency to less than that verified by the acceptance criteria.

(3) Relax, for the FRVS recirculation unit only, the acceptance criterion 4.6.5.3.c.2 that the methyl iodide penetration of a representative carbon sample is less than 1.0% to require that the petroleum is less than 7.5%.

(4) Change the current TS 4.7.2.c requirement for demonstrating the Control Room Emergency Filtration System subsystems to be operable to make it consistent with the revision of TS 4.6.5.3.c as discussed above for change item 2.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By March 11, 1988, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such as amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or

representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western union operator should be given Datagram Identification Number 3737 and the following message addressed to Walter R. Butler: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Conner and Wetterhahn, 1747 Pennsylvania Avenue NW., Washington, DC 20006, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated November 25, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070.

Dated at Bethesda, Maryland, this 3rd day of February 1988.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, Project Directorate I–2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88–2800 Filed 2–9–88; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–16253; 812–6892]

Medallion Funding Corp.; Application

February 4, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act".

Applicant: Medallion Funding Corp. ("Medallion").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from the provisions of sections 8(b), 12(d)(1), 12(e), 17(a), 17(d), 18(a), 18(c), 30(b) and 30(d) of the 1940 Act and Rules 8b–16, 17d–1, 30b1–1 and 30d–1 thereunder.

Summary of Application: Medallion and two related entities to be formed by Medallion seek exemptions from: (i) The restrictions set forth in Sections 12(d)(1) and 12(e) of the 1940 Act on the acquisition by an investment company of securities of other investment companies; (ii) the restrictions set forth in sections 17(a) and 17(d) of the 1940 Act and Rule 17d–1 thereunder on exchanges of securities and other joint transactions among investment companies; (iii) the restrictions set forth in sections 18(a) and 18(c) of the 1940 Act on the issuance by investment companies of debt securities; and (iv) certain requirements set forth in sections 8(b), 30(b) and 30(d) of the 1940 Act and Rules 8b–16, 30b1–1 and 30d–1 thereunder relating to the financial statements to be included in amendments and reports required thereunder.

Filing Date: The application was filed on October 9, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on February 29, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 205 East 42nd Street, Suite 2020, New York, New York 10017, Attn: President.

FOR FURTHER INFORMATION CONTACT: Cecilia C. Kalish, Staff Attorney (202) 272–3037, or Curtis R. Hilliard, Special Counsel (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Medallion is a closed-end, non-diversified, internally managed investment company registered under the 1940 Act, and is licensed by the Small Business Administration (the "SBA") as a Minority Enterprise Small Business Investment Company ("MESBIC"). Its principal business is the financing of the purchase of taxicab medallions, taxicabs and related assets by socially or economically disadvantaged entities within the meaning of SBA regulations. Its authorized capital stock consists of common stock, the shares of which are publicly held, and preferred stock, the shares of which may only be issued to the SBA.

2. Medallion proposes to engage in a reorganization consisting of (i) the formation of a new corporation (the "Holding Company"), which would acquire and own all of the common stock of Medallion (with the preferred stock continuing to be held by the SBA), and whose stock would be owned by the current holders of Medallion common stock; and (ii) the formation of a second corporation ("Newco"), which would be a subsidiary of the Holding Company and would be licensed by the SBA as a Small Business Investment Company ("SBIC"). Each of the Holding Company, Medallion and Newco would be registered investment companies under the 1940 Act.

Applicant's Conclusions of Law

1. Sections 12(d)(1) and 12(e)

The Holding Company's ownership of capital stock of Medallion and Newco does not fit squarely within the exemption provided by section 12(e) from the limitations imposed by section 12(d)(1) of the 1940 Act on investment company ownership of other investment companies, primarily because Medallion will have issued preferred stock and debentures to the SBA and Newco expects to issue debentures to the SBA. In general, the purpose of section 12(d)(1) is to prohibit investment companies from pyramiding control or management fees. Because the Holding Company will own 100% of the voting securities of Medallion and Newco it will not be pyramiding control. The Holding Company, Medallion and Newco, all are internally managed, thus, there is no opportunity or intent to pyramid management fees.

2. Sections 17(a) and 17(d), and Rule 17d–1.

The Holding Company, Medallion and Newco will all be registered investment companies and will be affiliated with each other. Sections 17(a) and 17(d) and Rule 17d–1 prohibit any transfers of securities or property, borrowings, or joint enterprises between any of these entities. Medallion requests an exemption from sections 17(a) and 17(d) and Rule 17d–1 to permit the Holding Company, Medallion and Newco to engage in such transactions among themselves, provided such transactions would qualify for an exemption under Rule 17d–1 except for the fact that such transaction is between or among the Holding Company, Medallion and Newco. Medallion contends that such transactions are in the best interests of each of the entities involved and, because Medallion and Newco will be subsidiaries of the Holding Company such related-party transactions cannot benefit one entity at the expense of another.

3. Sections 18(a) and 18(c)

The Holding Company, Medallion and Newco may borrow from banks, insurance companies, the SBA and others in pursuit of their finance businesses. Such borrowing may raise questions with respect to the asset coverage requirements in sections 18(a) and 18(c) of the 1940 Act. Medallion requests an exemption from sections 18(a) and 18(c) to permit such borrowing subject to certain restrictions. Medallion believes that these limited exemptions from sections 18(a) and 18(c) would allow the Holding Company, Medallion and Newco to most efficiently take advantage of the financial opportunities available to them, yet would not be inconsistent with the purposes of sections 18(a) and 18(c).

4. Sections 8(b), 30(b) and 30(d), and Rules 8b–16, 30b1–1 and 30d–1

It is proposed that the financial statement requirements in semi-annual reports to the Commission and to shareholders of the Holding Company be satisfied by including therein only consolidated financial statements. The Holding Company, Medallion and Newco will operate essentially as a single economic unit, the affairs of the subsidiaries being managed by the Holding Company in the best interests of its shareholders. Under these circumstances consolidated financial statements present the most meaningful financial information for financial reporting purposes, and separate financial statements for the Holding Company's subsidiaries would not significantly enhance investors' understanding of the financial position or operations of the Holding Company and its subsidiaries as a group.

Applicant's Conditions

Applicant agrees that if the order is granted, such order will be subject to the following conditions.

1. At all times the Holding Company will own and hold, beneficially and of record, all of the outstanding voting capital stock of Medallion and Newco.

2. The Holding Company will not cause or permit Medallion or Newco to change any of their fundamental investment policies, or take any other action referred to in section 13(a) of the 1940 Act, unless such action shall have been authorized by the Holding Company after approval of such action by a vote of a majority (as defined in the 1940 Act) of the outstanding voting securities of the Holding Company.

3. The Holding Company will not cause or permit Medallion or Newco to enter into, renew or perform any investment advisory or underwriting contract or agreement, written or oral, as contemplated by section 15 of the 1940 Act, unless the terms of such contracts or agreements and any renewal thereof shall have been approved in compliance with said section 15; and where any vote of the stockholders of Medallion or Newco would be required by said section 15, unless the stockholders of the Holding Company also shall have approved the same by vote by a majority (as defined in the 1940 Act) of the outstanding voting securities of the Holding Company, or where any action of the directors of Medallion or Newco would be required by said section 15, unless the Board of Directors of the Holding Company, including a majority of those directors who are not parties to any such contract or agreement or interested persons of any such party, also shall have approved the same.

4. The Holding Company will not itself, and the Holding Company will not cause or permit Medallion or Newco to, issue any senior security or sell any senior security of which the Holding Company, Medallion or Newco is the issuer except as hereinafter set forth: (a) Medallion may continue to have outstanding and may issue additional shares of its preferred stock to the SBA in accordance with applicable SBA regulations pertaining to MESBICs; (b) the Holding Company and each of Medallion and Newco may issue and sell to banks, insurance companies and other financial institutions their secured or unsecured promissory notes or other evidences of indebtedness in consideration of any loan, or any extension or renewal thereof made by private arrangement, provided the following conditions are met: (i) Such notes or evidences of indebtedness are not intended to be publicly distributed, (ii) such notes or evidences of indebtedness are not convertible into, exchangeable for or accompanied by any options to acquire any equity security, and (iii) the Holding Company and its subsidiaries on a consolidated basis, and the Holding Company, individually, shall have the asset coverage required by section 18(a) of the 1940 Act immediately after the issuance or sale of any such notes or evidences of indebtedness by any of them, except that, in determining whether Holding Company and its subsidiaries on a consolidated basis have the asset coverage required by section 18(a), any SBA preferred stock interest in Medallion and any borrowings by Medallion and Newco shall not be considered senior securities and, for purposes of the definition of "asset coverage" in section 18(h) of the 1940 Act, shall be treated as indebtedness not represented by senior securities; (c) in addition, (i) Medallion and Newco may borrow from the SBA (successor agency or bank with SBA guaranty) on such basis as the SBA from time to time may lend to MESBICs and SBICs, (ii) Medallion and Newco may borrow from the Holding Company, and (iii) the Holding Company may guarantee any borrowings by its subsidiaries, provided that 90% of the total assets of the Holding Company on a consolidated basis are represented by the Holding Company's investments in Medallion and Newco or in securities similar to those in which Medallion and Newco invest. None of the borrowings or other arrangements permitted by this subparagraph (c) shall be deemed senior securities for purposes of this order or section 18 of the 1940 Act.

5. The Holding Company will cause to be elected as directors of Medallion and Newco only persons who are directors of the Holding Company, elected in compliance with section 16(a) of the 1940 Act.

6. The Holding Company will file with the Commission pursuant to Rule 8b–16, amendments to its registration statement pursuant to section 8(b) of the 1940 Act on behalf of itself and Medallion and Newco containing information with respect to and financial statements of the Holding Company and its subsidiaries on a consolidated basis only, such amendments to be in lieu of and in

satisfaction of the separate filing obligations of Medallion and Newco pursuant to Rule 8b–16. The Holding Company will file with the Commission pursuant to Rule 30bl–1 under the 1940 Act semi-annual reports on Form N–SAR, or appropriate successor form, on behalf of itself, Medallion and Newco, containing information with respect to the Holding Company and its subsidiaries on a consolidated basis only and a copy of the financial report of each of Medallion and Newco filed with the SBA on SBA Form 468, or appropriate successor form, such consolidated annual reports to be in lieu of and in satisfaction of the separate obligations of Medallion and Newco pursuant to Rule 30bl–1 under the 1940 Act. The Holding Company will transmit to its stockholders semi-annually pursuant to section 30(d) of the 1940 Act reports containing the financial information and statements prescribed and required by such section for the Holding Company and its subsidiaries on a consolidated basis only, which reports shall be in lieu of and in satisfaction of the separate reporting obligations of Medallion and Newco pursuant to section 30(d); provided, however, that if 10 percent or more of the Holding Company's total assets on a consolidated basis are invested in assets other than securities issued by Medallion or Newco or securities similar to those in which such subsidiaries invest, then, in addition to the consolidated financial statements of the Holding Company and its subsidiaries, there shall be included in such reports combined financial statements of Medallion and Newco and separate financial statements of any subsidiary other than the aforementioned subsidiaries if the Holding Company's investment in such subsidiary amounts to 10 percent or more of the Holding Company's total assets on a consolidated basis. The Holding Company will also cause Medallion and Newco to file with the Commission copies of all reports which they are required to file with the SBA.

7. Any independent public accountant who signs a financial statement filed by the Holding Company, Medallion or Newco with the Commission shall be selected and approved in compliance with section 32(a) of the 1940 Act by holders of a majority (as defined in the 1940 Act) of the Holding Company's outstanding voting securities.

8. Any small business concern or other concern to which loans may be made by the Holding Company, Medallion or Newco which concern may become an affiliated person of the Holding Company and its subsidiaries, as a group may borrow from, or sell securities issued by it to, the Holding Company, Medallion or Newco, provided that such transaction meets the requirements for an exemption pursuant to Rule 17a–6 promulgated under the 1940 Act, except to the extent that it fails to meet the requirements of such Rule solely because another member of the Holding Company and its subsidiaries as a group is also a party to the transaction or has or within six (6) months prior to the transaction had, or pursuant to an arrangement will acquire, a direct or indirect financial interest in the small business or other concern.

9. The Holding Company and its subsidiaries as a group, or any member thereof, may participate in any joint enterprise or joint arrangement involving other participants, provided that such transaction meets the requirements for an exemption pursuant to Rule 17d–1 under the 1940 Act except to the extent it fails to meet the requirements of such Rule solely because other members of the Holding Company and its subsidiaries as a group are, or propose to be, participants in the joint enterprise or joint arrangement.

For the Commission, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis

Assistant Secretary.

[FR Doc. 88–2791 Filed 2–9–88; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–24572]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

February 4, 1988.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 29, 1988 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarants(s) at the addresses specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Connecticut Yankee Atomic Power Company (70–7378)

Connecticut Yankee Atomic power Company ("Company"), Selden Street, Berlin, Connecticut 06037, as subsidiary of Northeast Utilities and of New England Electric System, both registered holding companies, has filed an amendment to its declaration pursuant to sections 6(a) and 7 of the Act and Rules 50(a)(5) thereunder.

As originally filed, the Company proposed the issuance and sale of up to $100 million of long-term debt securities through December 31, 1987 and requested an exception from competitive bidding requirements with respect to the retention of one or more investment banking firms and the negotiation and sale of the securities. That exception was granted by the Commission in its notice herein on March 26, 1987 (HCAR No. 24354), and the Company has selected Morgan Stanley & Co. Incorporated and Salomon Brothers Inc. as underwriters.

The Company has now determined to proceed with a negotiated sale to underwriters of a series of up to $100 million of general and refunding mortgage bonds ("Series A Bonds"). The Company would enter into a mortgage indenture and deed of trust ("Indenture") pursuant to the terms of which it would mortgage its property (subject to the prior lien securing its first mortgage bonds) as collateral for the Series A Bonds, and additional mortgage bonds (including the Series B Bonds, below) to be issued from time to time. In addition, in order to issue and secure the Series A Bonds, the Company must obtain the consent of the banks which are parties to the Company's 1986 Credit and Letter of Credit Agreement ("Agreement") (HCAR No. 24280, December 24, 1986). The banks have tentatively agreed to provide such consent if loans they have made under the Agreement, currently in the approximate outstanding amount of $96 million, are secured *pari passu* under the Indenture. The Company will provide such security by issuing its Series B

Bonds under the Indenture in a principal amount of approximately $96 million to the agent bank under the Agreement, and will enter into a collateral agreement with the agent bank and amend the Agreement.

The Columbia Gas System, Inc. (70-7487)

The Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road, Wilmington, Delaware 19807, a registered holding company, has filed a declaration pursuant to sections 6(a) and 7 of the Act and Rules 50 and 50 (a) (5) thereunder.

Columbia proposes to issue and sell in one or more transactions through December 31, 1989, an aggregate principal amount not exceeding $300 million of (i) debentures ("Debentures") maturing in thirty or fewer years, or (ii) medium-term notes ("MTNs") with maturities of from nine months to ten years. Columbia proposes to sell the Debentures at competitive bidding. The MTNs would be offered publicly, through an agent or agents, on a periodic basis. An MTN could be non-redeemable, but in no circumstance would an MTN be non-redeemable for a period exceeding seven years. The terms and conditions of the MTNs would be determined by market forces at the time of sale. Columbia requests that the proposed issuance and sale of MTNs be excepted from the competitive bidding requirements of Rule 50, pursuant to Rule 50(a)(5).

Columbus Southern Power Company (70-7491)

Columbus Southern Power Company ("CSP"), 215 North Front Street, Columbus, Ohio 43215, a subsidiary of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed a declaration pursuant to sections 12(b) and (f) of the Act and Rule 45 thereunder.

CSP requests authorization to indemnify, along with The Cincinnati Gas & Electric Company ("CG&E") and The Dayton Power and Light Company ("DP&L") (CG&E and DP&L are unaffiliated with the AEP System) (collectively, "Owners"), American Electric Power Service Corporation ("AEPSC"), a subsidiary of AEP, or any of CSP's other affiliates of all liability in any way attributable to or arising out of a certain Project Management Ageement entered into by and between the Owners and AEPSC, and a certain Training Services Contract entered into by the Owners and AEPSC. CSP also requests authorization to indemnify, along with CG&E and DP&L, any other affiliate of CSP that might provide goods or services to the Owners pursuant to these agreements or in any way arising out of the conversion of the Zimmer Station from a nuclear generating plant to a coal-fired unit.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88-2793 Filed 2-9-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-16252; 811-4476 and 811-4478—83]

Selected Investment Managers Capital Appreciation Equity Fund, et al.; Applications for Deregistration

February 4, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of applications for deregistration under the Investment Company Act of 1940 ("1940 Act").

Applicants: Selected Investment Managers Capital Appreciation Equity Fund, Selected Investment Managers Diversified Fixed Income Fund, Selected Investment Managers Income Equity Fund, Selected Investment Managers Tax Exempt Fixed Income Fund, Selected Investment Managers Tax Exempt Money Market Fund, Selected Investment Managers U.S. Government Guaranteed Securities Income Fund and Selected Investment Managers International Equity Fund.

Relevant 1940 Act Section: Section 8(f).

Summary of Applications: Each Applicant seek an order declaring that it has ceased to be an investment company.

Filing Dates: The applications were filed on November 19 or 20, 1987, and amended on January 26, 1988.

Hearing or Notification of Hearing: If no hearing is ordered, the applications will be granted. Any interested person may request a hearing on these applications, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on February 29, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, in the case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary SEC, 450 5th Street NW., Washington, DC 20549; Applicants, Federal Reserve Plaza, Boston, Massachusetts 02210.

FOR FURTHER INFORMATION CONTACT: Thomas Mira, Staff Attorney (202) 272-3033, or Brion Thompson, Special Counsel (202) 272-3016 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the applications; the complete applications are available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. Applicants filed separate registration statements of Form N-1A under the 1940 Act and the Securities Act of 1933 ("1933 Act") on November 18, 1985. Applicants' registrations became effective with respect to an indefinite number of shares of beneficial interest, and each Applicant commenced the initial public offering of its shares on June 6, 1986. Applicants were organized as Massachusetts business trusts but were terminated under the laws of The Commonwealth of Massachusetts as of July 1, 1987.

2. Applicants have been reorganized as separate series of the Selected Investment Managers Series Fund (formerly Selected Investment Managers Diversified Equity Fund, hereinafter the "Trust") primarily in order to reduce expenses through reducing the volume of filings previously required in connection with updating and other amendments to seven separate investment company registration statements and other reports under the 1940 Act, the 1933 Act and state securities laws. The questions that had previously existed as to whether separate series of a single investment company would be treated as separate entities for Federal tax purposes, which questions had caused the initial organization of Applicants as separate series of the Trust to be deemed inadvisable, were favorably resolved for fiscal years of Applicants beginning July 1, 1987, by the Tax Reform Act of 1986.

3. On February 26, 1987, the Board of Trustees of each Applicant approved the Agreement and Plan of Reorganization ("Agreement") between Applicants and the Trust, and the reorganization ("Reorganization") comtemplated thereby, and recommended approval of the Agreement by the shareholders. At a meeting of shareholders of the Applicants on June 4, 1987, the sole shareholder of each Applicant approved

the Agreement. The Trust, which is a Massachusetts business trust created by a Declaration of Trust dated November 18, 1985, registered under the 1940 Act and the 1933 Act on November 18, 1985 (File No. 811-4477).

4. On July 1, 1987, pursuant to the Agreement, each Applicant transferred all of its assets and liabilities to a separate series of the Trust in exchange for a number of shares of beneficial interest of such series equal to the number of shares of beneficial interest of each Applicant outstanding immediately before the effective time of the Reorganization. The related Trust series assumed all of the obligations and liabilities of each Applicant. Immediately thereafter, Applicants distributed the shares of the respective series received to its shareholders in complete liquidation. Upon completion of the Reorganization, each shareholder of each Applicant owned as many full and fractional shares of the related series of the Trust, with the same net asset value, as the number of shares of each Applicant owned immediately prior to the Reorganization.

5. None of the Applicants is a party to any litigation of administrative proceedings and each Applicant has no assets, debts or liabilities. Each Applicant has no shareholdes and is engaged in only those business activities necessary for the winding up of its affairs.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88-2792 Filed 2-9-88; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-88-4]

Petition for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: March 1, 1988.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No. _____, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on February 4, 1988.

Denise D. Hall,

Acting Manager, Program Management Staff.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
20044	Air Transport Association of America	14 CFR 61.63 (b) and (c) and 121.437(c)	To extend Exemption No. 2965, as amended, to allow pilots employed by Part 121 certificate holders to be issued additional category and class ratings based on successful completion of an approved Part 121 second-in-command training program. Exemption No. 2965, as amended, will expire on April 30, 1988.
25509	Continental Illinois National Bank and Trust Company of Chicago.	14 CFR 135.143 and 135.179	To allow operation of single-engine Bell 206 L-1 helicopters under an approved minimum equipment list allowing flight with optional equipment inoperable as permitted for multi-engine aircraft.
050CE	Rinaldo Piaggio SpA of Via Cibrario 4 Genova, Italy.	Section 23.1321	Petition for exemption from the flight instrument arrangement requirements of Section 23.1321 applicable to the P180 airplane to allow deviation to the basic "T" instrument arrangement with location of the airspeed and altimeter instruments.
051CE	Beech Aircraft Corporation Wichita, Kansas	SFAR41C 5(e)(k)	Petition for exemption from the aisle width requirements of SFAR41C 5(e)(k) for Serial Numbers FA-1 through FA-111.